

No. 11154

---

United States  
Circuit Court of Appeals  
For the Ninth Circuit.

---

FRANK M. WEBER,

Appellant,

vs.

EVA M. WELLS, OGLA K. NEWPORT, ERN-  
EST H. KREYENHAGEN, JENNIE MAY  
MERRILL MILLER, ALMA H. SILVA,  
LILLIAN ARNEY, LOWELL HERIFORD,  
WALTER MERRILL and PAUL MERRILL,  
Appellees.

---

Transcript of Record

---

Upon Appeal from the District Court of the United States  
for the Northern District of California,  
Southern Division

FILED

NOV 30 1945

PAUL P. O'BRIEN,

Rotary Colorprint, 661 Howard Street, San Francisco

CLERK



No. 11154

---

United States  
Circuit Court of Appeals  
For the Ninth Circuit.

---

FRANK M. WEBER,

Appellant,

vs.

EVA M. WELLS, OGLA K. NEWPORT, ERN-  
EST H. KREYENHAGEN, JENNIE MAY  
MERRILL MILLER, ALMA H. SILVA,  
LILLIAN ARNEY, LOWELL HERIFORD,  
WALTER MERRILL and PAUL MERRILL,  
Appellees.

---

Transcript of Record

---

Upon Appeal from the District Court of the United States  
for the Northern District of California,  
Southern Division



# INDEX

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

	PAGE
Affidavit of Frank M. Weber in Support of Motion for Payment of Money.....	56
Amendment to Declaration of Taking.....	37
Answer of Eva M. Wells, et al.....	50
Answer of Frank M. Weber.....	48
Appeal:	
Certificate of Clerk to Transcript of Rec- ord on .....	83
Cost Bond on.....	74
Designation of Record on (DC).....	78
Notice of .....	70
Order Extending Time to Docket.....	78, 82
Order Staying Proceeding Pending.....	80
Statement of Points on (DC).....	76
Statement of Points and Designation of Record on (CCA).....	97
Stipulation re Amount of Supersedeas Bond on.....	71
Supersedeas Bond on.....	63
Undertaking on.....	72

INDEX	PAGE
Certificate of Clerk to Transcript of Record on Appeal .....	83
Complaint in Condemnation.....	8
Cost Bond on Appeal.....	74
Declaration of Taking.....	19
Amendment to.....	37
Decision, Findings of Fact and Conclusions of Law .....	64
Designation of Record on Appeal (DC).....	78
Designation of Record, Statement of Points and (CCA).....	97
Judgment of Apr. 22, 1942.....	32
Judgment of July 10, 1945.....	68
Names and Addresses of Attorneys.....	1
Notice of Appeal.....	70
Notice of Motion for Payment of Money.....	55
Affidavit in Support of Motion.....	56
Objections and Amendments on Behalf of F. M. Weber to Proposed Findings of Fact and Conclusions of Law.....	61
Order Denying Motion for Payment of Money	60
Order Extending Time to Docket Appeal....	78, 82
Order Granting Immediate Possession and Use of Property Sought to Be Condemned..	15

INDEX	PAGE
Order on Objections and Amendments to Proposed Findings of Fact and Conclusions of Law.....	63
Order Staying Proceeding Pending Appeal...	80
Statement of Points on Appeal (DC).....	76
Statement of Points and Designation of Record on Appeal (CCA).....	97
Stipulation re Amount of Supersedeas Bond..	71
Supersedeas Bond on Appeal.....	63
Transcript of Proceedings of Feb. 28, 1945....	84
Exhibits for Defendant:	
1—Indenture, July 14, 1942, between Edward F. Bryant and Frank M. Weber .....	88
2—Indenture, July 14, 1942, between Edward F. Bryant and Frank M. Weber .....	91
3—Certificate of Redemption (For Real Estate Sold at Auction).....	94
4—Certificate of Redemption (For Real Estate Sold at Auction).....	95
Undertaking on Appeal.....	72





## NAMES AND ADDRESSES OF ATTORNEYS

### M. WEBER

3227 Twenty First Street  
San Francisco, California

Attorney for Defendant and Appellant,  
Frank M. Weber

### ROYAL E. HANDLOS

130 Montgomery Street  
San Francisco, California

Attorney for Defendants E. A. Wells, et al

### M. MITCHELL BOURQUIN

Special Assistant to the Attorney General  
710 Crocker Building  
620 Market Street  
San Francisco, California

Attorney for Plaintiff and Appellee.

In the District Court of the United States in and for  
the Northern District of California, Southern  
Division

No. 22147-R

UNITED STATES OF AMERICA,

Plaintiff,

vs.

230.5 acres of land in the City and County of San  
Francisco, State of California, CARRIE F.  
REDNALL, WILLIAM W. REDNALL,  
FLORA VAN DEN BERGH, CALIFORNIA  
A. SCOTT, MATILDA P. ANDREWS,  
MURIEL A. BRANHAM, JOHN S. KEP-  
NER, HARVEY M. TOY, SOUTH SAN  
FRANCISCO DOCK CO., BETHLEHEM  
SHIPBUILDING CO., MARY WARD,  
ROSE RYAN, GEO. P. CHAN, MARGARET  
P. CHAN, CLUCK POY SHUN, KATE C.  
TOWLE, JANET McLEOD, WALTER MER-  
RILL, PAUL MERRILL, JENNIE M. MER-  
RILL, JENNIE L. MERRILL, OLGA K.  
NEWPORT, EVA M. WELLS, ERNEST H.  
KREYENHAGEN, MARIA M. KREYEN-  
HAGEN, ALMA H. SILVA, LOWELL HER-  
RIFORD, LILLIAN HERRIFORD, MARK  
E. NOON, GEORGE HANSEN, ALBERT  
GIANELLI, DELLA GIANELLI, LILLY  
LERMAN, WARREN POWERS, AGO-  
STINA ZARA, CATHERINA ZARA, B. A.  
SOMERS, GEO. YAKSICH, PERCY A.

MOLFINO, LOUISE M. MOLFINO, LINCOLN MINOR CHUCK, GEO. C. AHLBORN, GRACE AHLBORN, KERNAN ROBSON, JAMES R. MARTIN, FLORENCE M. MARTIN, WAY HIN CHECK, LOUIS VERKICH, AUGUST H. SIEMER, FLORENCE A. SIEMER, VITO CHIATO, KATHERINE CHIATO, STEVE POKLAR, FRED ASSALINO, CELESTINE ASSALINO, EDITH BUBE, SIMON G. BUBE, LUCY H. CALLAN, ELMER A. FRIDLEY, WM. W. WITNEY, MAMIE A. WITNEY, WALTER S. NEWHALL, [1\*] CHAS. E. LONG, W. R. JAMESON, GIAN VIDNLICH, MARY VIDNLICH, MARIA KARCICH, ANDREW D. ZANETTI, SALLIE L. HINTON, PRICE HINTON, ANNIE HINTON, DEWEES HINTON, MAGGIE L. HINTON, DANIEL McSWEENEY, AGNES McSWEENEY, J. M. KLOBNEAR, HOUGHTON CO., ANGELO COSTANZO, EDA COSTANZO, VIRGINIA BARCA, Individually and as Trustee, SILAS D. HARP, BERNICE HARP, VIRGIL JOHNSON, PHYRN JOHNSON, JOHN P. GANCI, CHAS. G. MADGWICK, EUNICE F. MADGWICK, FRANK MACHADO, FRANK MAGNO, HELEN MAGNO, MILDRED L. GOODSSELL, CHAS. C. GARDNER, LAM CHAN, MARY S. BROWN, LAM

---

\*Page numbering appearing at foot of page of original certified Transcript of Record.

ROSE CHAN, WM. L. BROWN, RACHELE A. McLAREN, JOSEPH D. TOOHIG, HELEN V. MAU, BEATRICE V. CUNEO, M. E. GORTER, HELEN D. DERRY, JAMES J. DOWNEY, JOSEPH T. DOWNEY, J. G. JAMES CO., ISABELLE SILVA, ALFRED SELIGMAN, WALTER J. SILVA, YEE LING SHEE LOO, M. ROODHOUSE, JACK ROBINSON, AMELIA ROBINSON, J. L. TOMPKINS, BYRON B. TOMPKINS, MARY TOMPKINS, REX R. WILSON, PEDRO LONGA, GRACE LONGA, ALIVE WILSON, ROSA M. BAYER, ROSE CAVANAUGH, WAI KEE HU, ALBERT W. McKINNEY, RUTH McKINNEY, EDWARD BERGOLD, JANE M. O'GARA, RALPH C. SMITH, ESTER SMITH, DONALD STUART, IDA STUART, HERBERT F. BUCKLEY, MARY E. CUNNINGHAM, CHAS. BEVAN, PETER LOVS, HELEN LOVS, JACK LOVS, MARIN LOVS, ORAL E. CARRERE, ARTHUR R. VLARGUES, WHITNEY WARREN, JR., GARDNER A. DAILEY, GEO. G. MOLEMA, BERTHA MOLEMA, THOS. A. NELSON, REGINA NELSON, DAVID C. LEVAKE, DEYO LEVAKE, MILDRED E. MOLEMA, TILL TOMS, THELMA TOMS, RAOUL O. BOZIO, HARRIET E. BOZIO, JENNABELLE DELANEY, A. A. CORNELL, PAUL PAOLINI, PINA PAOLINI, SOPHIE HAMILTON, ALBERT LISE, ODETTE LISE, I. J.

PIAZZO, EDITH PIAZZO, ARTHUR F. STEVEN, MAY E. CHRISTENSEN, SEFERINO RIVERA, FELICITA S. RIVERA, JOSEPH YAICH, HARRIETT E. JEFFRESS, MOSES YANG, LOUIS COLTON, BLANCHE COLTON, WM. W. BROWNE, ODIE A. STERNER, MERTIE E. STERNER, OSCAR LEWIS, BETTY C. LEWIS, F. D. STOLLER, JACELYN I. STOLLER, JUANITA DOWD, RAY T. BURKE, MADELINE BURKE, IVAN N. MILEY, KATHERIN MILEY, IONE GAIN, ROBT. GAIN, WM. P. SHIELDS, MA BURNS, MAUDE McLAUGHLIN, ERIKA WINUP, FRED I. KEMM, MARIE J. KEMM, SAN FRANCISCO LAND & TITLE CO., ALBERT J. FERNANDEZ, BERNIE H. FERNANDEZ, E. J. JACKSON, JEAN JACKSON, GERTRUDE M. STEVENSON, EVA M. DILLON, ALBERT L. JOHNSON, MARY JOHNSON, M. DIEHL, KARL A. KERN, IDA SOOMAN, RM., FLORENCE G. PERINE, EMILE NAGARD, ALBERT McKINNEY, SR., PATRICIA C. KIRK, PETER DEAN CO., ABBY FRINK BICKEL, CITY TITLE INS. CO., HELEN R. KAHN, EDGAR D. ROSENBERG, MINNIE E. SLIKERMAN, CORNELIUS TAMONY, [2] JOSEPH AREVALO, MARIE AREVALO, JOSE CESENA, LUPE CESENA, ALFRED M. CONLEY, VIOLA I. CONLEY, JOE BARAJOS, MARIE BARAJOS, BERNARD, BER-

NARDO, RAMONA BERNARDO, WM. EDE CO., JAS. GRECO, LENA GRECO, AUGUST PIEREZ, MARY PIEREZ, JOHN ROSADO, JULIA ROSADO, NAOMI E. LEE, JOHN O'NEILL, ROBT. W. CHASE, WALTER F. SARLIN, ANNE SARLIN, WM. J. G. JORDAN, KATHARINA STAUFFER, MINNIE HILDEBRECHT, C. F. McCANN, C. BURDICK, CHAS. E. BURDICK, ISABELLE BURDICK, JOS. VELEZ, RAFAELA VELEZ, RAYMOND F. GILLETTE, GINO L. DENTESANO, MANUEL C. FARRELL, THOMAS A. RYAN, ALICE M. BEGLEY, HERBERT C. RODENBERGER, MERLE M. RODENBERGER, RENEE M. BRANSTEN, LESTER L. ROTH, BETTIE J. HORN, HERMANDO JOOST, HENRY INVESTMENT CO., PHILIP P. PASCHEL, MERCANTILE TRUST CO., ALFRED TOBIN, Individually and as Trustee, OSCAR A. SARLIN, LILY O'CONNOR, CORNELIA O'CONNOR, ISABELLE O'CONNOR, CECILIA O'CONNOR, KATE COLEMAN, WELLS FARGO BANK & UNION TRUST CO., Trustee (A. J. Rich Estate), MATILDA T. ALTVATER, SARAH GLEESON, ROBT. W. KELLY, WINIFRED S. KELLY, ELSA EVERDING, ELMA D. GOODMAN, WALTER E. DAKIN, JAMES S. HUTCHINSON, C. A. WELLMAN, JOHN H. STAHL, MARTHA CHASE HOLLAND, JOHANNA



E. MacNICOL, ELIZABETH J. HARMS, ALBERT GALLATIN, NELLIE BARRETT, KATHRINE BARRETT, MARY A. BARRETT, ALICE BARRETT, JOSEPHINE BARRETT, ROSA CHEIM, Individually and as Trustee, HARRY CHEIM, Individually and as Trustee, JOSEPH CHEIM, Individually and as Trustee, ARTHUR A. NEWHOUSE, SCHILLING ESTATE CO., JAMES MADISON ESTATE CO., FIRST DOE, Individually and as Executor of the Estate of James M. McDonald, CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, SECOND DOE, THIRD DOE, FOURTH DOE, FIFTH DOE, SIXTH DOE, SEVENTH DOE, EIGHTH DOE, NINTH DOE, TENTH DOE, ELEVENTH DOE, TWELFTH DOE, THIRTEENTH DOE, FOURTEENTH DOE, FIFTEENTH DOE, SIXTEENTH DOE, SEVENTEENTH DOE, EIGHTEENTH DOE, NINETEENTH DOE, TWENTIETH DOE, TWENTY-FIRST DOE, TWENTY-SECOND DOE, TWENTY-THIRD DOE, TWENTY-FOURTH DOE, TWENTY-FIFTH DOE, FIRST DOE CORPORATION, SECOND DOE CORPORATION, THIRD DOE CORPORATION, FOURTH DOE CORPORATION, FIFTH DOE CORPORATION, SIXTH DOE CORPORATION, SEVENTH DOE CORPORATION, EIGHTH DOE CORPORATION, NINTH DOE CORPORATION, TENTH DOE CORPORATION,

ELEVENTH DOE CORPORATION,  
TWELFTH DOE CORPORATION, THIR-  
TEENTH DOE CORPORATION, FOUR-  
TEENTH DOE CORPORATION, FIF-  
TEENTH DOE CORPORATION, SIX-  
TEENTH DOE CORPORATION, SEVEN-  
TEENTH DOE CORPORATION, EIGHT-  
EENTH DOE CORPORATION, NINE-  
TEENTH DOE CORPORATION, TWEN-  
TIETH DOE CORPORATION,

Defendants.

[3]

### COMPLAINT IN CONDEMNATION

Now comes the United States of America, by M. Mitchell Bourquin, Special Assistant to the Attorney General, at the direction and under the authority of the Attorney General of the United States and pursuant to the request of the Acting Secretary of the Navy, and for cause of action against the above named defendants, alleges as follows:

#### I.

That this proceeding is instituted and the lands hereinafter described are taken pursuant to the provisions contained in the Act of Congress approved July 19, 1940 (Public Law No. 757, 76th Congress, 3rd Session), which Act authorizes the acquisition of land for naval purposes, and the Second War Powers Act of 1942 (S. 2208, 77th Congress, 2nd Session).



## II.

That the lands hereinafter described are taken and condemned under the authority of the above mentioned Act of Congress, for the uses and purposes authorized by said act and are sought and taken for the expansion of facilities at the present Naval Dry Dock Hunter's Point, San Francisco, California, and are suitable and necessary for said purpose; that said use of said lands constitutes a public use and said lands have been selected by the Secretary of the Navy for acquisition for said purposes and uses above stated and are required for immediate use in order that the necessary work may be begun thereon for carrying out said purposes and uses.

## III.

That the acquisition of said lands by plaintiff will be of the greatest public benefit and the least [4] private injury; that no part of said lands has heretofore been appropriated for public use by said plaintiff, or the State of California, or any political subdivision thereof.

## IV.

That the estate or interest which plaintiff seeks to take and condemn in the lands hereinafter described is the fee simple title to said lands, hereinafter described.

## V.

That there are sufficient funds now available with which plaintiff can and is authorized to pay just compensation for the lands sought to be taken and

condemned herein in whatever sum may be ultimately awarded in the proceeding for the taking of said lands and any damages resulting therefrom.

## VI.

That the lands to be taken and condemned in this proceeding aggregate 230.5 acres, more or less, are situate in the City and County of San Francisco, State of California, and more particularly described as follows: [5]

Beginning at the point of intersection of the northeasterly line of Oakdale Ave. and the southeasterly line of Fitch Street, said point also being the northwesterly corner of Block 4725 as shown on that certain map entitled, "Naval Dry Docks, Hunter's Point, California, Acquisition of land," Numbered C-1892-5 and prepared by the Public Works Administration and from said point of beginning southeasterly along the northeasterly line of Oakdale Ave. and the projection thereof to a point which is the point of intersection of the line projected from the northeasterly line of Oakdale Ave. and the United States Bulkhead line; thence in a northeasterly direction along said United States Bulkhead Line to a point which is the point of intersection of the United States Bulkhead Line and the southwesterly boundary line of the Hunter's Point Naval Dry Docks; thence northwesterly along said southwest boundary line to a point which is the most westerly corner of the lands of said Hunter's Point Naval Dry Docks; thence northeasterly along the northwesterly boundary

line of Hunter's Point Naval Dry Docks to a point which is the point of intersection of said northwesterly boundary line and the United States Bulkhead Line; thence along said United States Bulkhead Line to a point which is the point of intersection of said United States Bulkhead Line and the southeasterly line of Coleman Street; thence southwesterly along the southeasterly line of said Coleman Street to a point which is the point of intersection of said southeasterly line of Coleman Street and the southwesterly line of McKinnon Ave.; thence northwesterly along the southwesterly line of McKinnon Ave. to a point which is the point of intersection of the southwesterly line of McKinnon Ave. and the southeasterly line of Earl Street; thence southwesterly on the southeasterly line of Earl Street to a point which is the point of intersection of said southeasterly line of Earl Street and the southwesterly line of Newcomb Ave.; thence northwesterly on the southwesterly line of Newcomb Ave. to a point which is the point of intersection of the southwesterly line of Newcomb Ave. and the southeasterly line of Fitch Street; thence southwesterly along the southeasterly line of Fitch Street to a point which is the point of intersection of the southeasterly line of Fitch Street and the northeasterly line of Oakdale Ave. said point being the point of beginning containing 230.5 acres, more or less. [6]

## VII.

That a plan showing the lands taken as above described is attached hereto, marked Exhibit "A", and made a part hereof by reference.

## VIII.

That plaintiff is informed and believes and therefore alleges that none of said lands taken by this proceeding are a part of any larger tract belonging to the apparent or purported owners of said lands herein described.

## IX.

Each of the defendants above named claims to be the owner of a portion of the property subject of this action, or has or claims to have some interest therein.

## X.

That so far as is known to plaintiff, the only persons, firms or corporations having or claiming any interest in the above described property and who are therefore joined as defendants, are the following: City and County of San Francisco, and State of California.

## XI.

That the defendants Second Doe to Twentyfifth Doe, inclusive, and First Doe Corporation to Twentieth Doe Corporation, inclusive, are sued and designated herein by fictitious names for the reason that their true names are unknown to plaintiff, but the plaintiff will, upon ascertaining their true names, substitute the same for such fictitious names by appropriate amendment, and prays such leave of the Court; that said defendants, and each [7] of them, may have or claim to have an interest in some piece or parcel of the lands sought to be taken and condemned in this action, but that the nature,

character or extent of such interest is unknown to plaintiff.

## XII.

That the Acting Secretary of the Navy has determined that it is necessary, advantageous and in the interests of the United States that an order be obtained from this Court authorizing said Navy Department to take immediate possession of the above described lands to the extent of the interest above described, and the above mentioned Special Assistant to the Attorney General has been authorized and directed by the Attorney General of the United States to take proper proceedings herein to acquire such order from this Honorable Court.

Wherefore, plaintiff prays:

1. For an order authorizing and directing the United States to take immediate possession of the above described lands.

2. For judgment:

- (a) Decreeing that said lands above described, to the extent of the title and interest which plaintiff seeks to acquire by this action, are condemned for necessary public uses of the plaintiff as authorized by law; that all of said lands are necessary and suitable thereto;

- (b) Determining the value of the lands subject of this action and each separate interest therein and directing the payment for each separate interest to the persons entitled thereto. [8]



3. For such other and further relief as the Court may deem meet and proper in the premises.

M. MITCHELL BOURQUIN

Special Assistant to the At-  
torney General

Attorney for Plaintiff [9]

### VERIFICATION

United States of America )

Northern District of California ) ss.

City and County of San Francisco )

M. Mitchell Bourquin, being first duly sworn, deposes and says:

That he is a Special Assistant to the Attorney General of the United States, and attorney for the plaintiff in the above action; that he has read the foregoing Complaint and knows the contents thereof; that the same is true of his own knowledge except as to matters which are therein stated on his information or belief, and as to those matters that he believes it to be true.

That the reason why this verification is made by affiant and not by the plaintiff is that the plaintiff is a corporation sovereign.

That the sources of affiant's information and the grounds for his belief are the official communications, records, files and documents received from the Attorney General of the United States and from the Navy Department of the United States.

M. MITCHELL BOURQUIN

Special Assistant to the At-  
torney General

Subscribed and sworn to before me this 4th day of April, 1942.

[Seal]                      LOUIS V. VASQUEZ

Notary Public in and for the City and County of San Francisco, State of California.

My commission expires December 4, 1943. [10]

(Map Attached to Original Complaint) Exhibit "A"

[Endorsed]: Filed at 11:40 a.m. Apr. 4, 1942.

[10a]

---

[Title of District Court and Cause.]

ORDER GRANTING IMMEDIATE POSSESSION AND USE OF PROPERTY SOUGHT TO BE CONDEMNED

Upon reading and filing the Complaint in the above entitled action, and in appearing that application has been made by plaintiff to be let into immediate possession of the lands described in the Complaint, and hereinafter described, and to take and make use of the quantum of estate and interest sought to be condemned as alleged in said Complaint, to the extent and for the purposes as alleged in said Complaint, and to proceed thereon with the public work authorized by Congress and directed by the Acting Secretary of the Navy and the Attorney General of the United States in the manner as set forth in said Complaint, and it further appearing that certain and adequate provision has been made for payment of just compensation to the

parties entitled thereto by previous appropriation of the Congress of the United States for that purpose:

Now, Therefore, It Is Ordered and Directed that leave be, and is hereby granted the United States of America to take immediate possession and use of the lands described in the Complaint herein, and hereinafter described, to the extent of the estate and interest to be acquired by the United States of America, to-wit, the fee simple title to said lands hereinafter described, for the expansion of facilities at the present Naval Dry Docks Hunter's Point, San Francisco, California, and plaintiff is hereby authorized to proceed with such public works thereon as have been authorized by Congress;

It Is Further Ordered and Directed that inasmuch as the United States of America has made certain and adequate provisions for the payment of just compensation [14] to the party or parties entitled thereto by virtue of appropriations made by Congress therefor, as set forth in the Complaint on file herein, it shall not be necessary that the United States of America deposit, or cause to be deposited any sum or sums of money, or other form of security of any kind or nature for the purpose of securing the payment of just compensation to the party or parties entitled thereto.

The United States Marshal is hereby authorized to place plaintiff in possession of said property.

Following is a particular description of the lands affected by this order, which said lands are situate



in the City and County of San Francisco, State of California: [15]

Beginning at the point of intersection of the northeasterly line of Oakdale Ave. and the southeasterly line of Fitch Street, said point also being the northwesterly corner of Block 4725 as shown on that certain map entitled "Naval Dry Docks, Hunter's Point, California, Acquisition of land," Numbered C-1892-5 and prepared by the Public Works Administration and from said point of beginning southeasterly along the northeasterly line of Oakdale Ave. and the projection thereof to a point which is the point of intersection of the line projected from the northeasterly line of Oakdale Ave. and the United States Bulkhead line; thence in a northeasterly direction along said United States Bulkhead Line to a point which is the point of intersection of the United States Bulkhead Line and the southwesterly boundary line of the Hunter's Point Naval Dry Docks; thence northwesterly along said southwest boundary line to a point which is the most westerly corner of the lands of said Hunter's Point Naval Dry Docks; thence northeasterly along the northwesterly boundary line of Hunter's Point Naval Dry Docks to a point which is the point of intersection of said northwesterly boundary line and the United States Bulkhead Line; thence along said United States Bulkhead Line to a point which is the point of intersection of said United States Bulkhead Line and the southeasterly line of Coleman Street; thence southwesterly along the southeasterly line of said Coleman Street to a

point which is the point of intersection of said southeasterly line of Coleman Street and the southwesterly line of McKinnon Ave.; thence northwesterly along the southwesterly line of McKinnon Ave. to a point which is the point of intersection of the southwesterly line of McKinnon Ave. and the southeasterly line of Earl Street; thence southwesterly on the southeasterly line of Earl Street to a point which is the point of intersection of said southeasterly line of Earl Street and the southwesterly line of Newcomb Ave.; thence northwesterly on the southwesterly line of Newcomb Ave. to a point which is the point of intersection of the southwesterly line of Newcomb Ave. and the southeasterly line of Fitch Street; thence southwesterly along the southeasterly line of Fitch Street to a point which is the point of intersection of the southeasterly line of Fitch Street and the northeasterly line of Oakdale Ave. said point being the point of beginning containing 230.5 acres, more or less. [16]

The Court reserves the right hereafter to make such other and further orders, judgments and decrees herein as may be necessary in the premises.

Dated: This 4th day of April, 1942.

MICHAEL J. ROCHE

Judge, United States District Court, Northern District of California.

[Endorsed]: Filed April 4, 1942. [17]

[Title of District Court and Cause.]

## DECLARATION OF TAKING

Whereas, it has become necessary that the lands which are the subjects of condemnation in the above entitled proceeding be taken for immediate public use by the United States of America for the expansion of facilities at the present Hunters Point Naval Dry Dock, San Francisco, California, upon the filing of this declaration of taking,

Now, Therefore, I, James Forrestal, Acting Secretary of the Navy, acting for and in the capacity of the Secretary of the Navy, under and pursuant to the provisions of the Acts of Congress approved January 29, 1942, (Public Law 420, 77th Congress; 55 Stat., Chap 25); Act of Congress approved February 7, 1942 (Public Law 441, 77th Congress; 55 Stat., Chap 46); [19] August 1, 1888 (25 Stat., 357; U. S. C., title 40, sec. 257); and February 26, 1931 (46 Stat., 1421; U. S. C., title 40, sec. 258a), do hereby make and cause to be filed this declaration of taking, pursuant to said acts of Congress and any acts amendatory thereof or supplementary thereto, and by virtue of authority thereof, do hereby state that I have selected for acquisition two hundred thirty and five tenths (230.5) acres of land, more or less, situated in the City of San Francisco, County of San Francisco, California, which said lands are shown on photostatic copy of map number C-1892-5, entitled "Navy Yard, Mare Island, California, Navy Dry Docks Hunters Point, California, Acquisition of Land," which is attached

hereto as Exhibit "A" and made a part of this declaration of taking. Said lands are more particularly described as follows:

Beginning at the point of intersection of the Northerly line of Oakdale Avenue and the Southeasterly line of Fitch Street, said point also being the Northwesterly corner of Block 4725 as shown on Exhibit "A", and from said point of beginning Southeasterly along the Northeasterly line of Oakdale Avenue and the projection thereof to a point which is the point of intersection of the line projected from the Northeasterly line of Oakdale Avenue and the United States Bulkhead Line; thence in a Northeasterly direction along said United States Bulkhead Line to a point which is the point of intersection of the United States Bulkhead Line and the Southwesterly boundary line of the Hunters Point Naval Dry Docks; thence Northwesterly along said Southwest boundary line to a point which is the most Westerly corner of the lands of said Hunters Point Naval Dry Docks; thence Northeasterly along the Northwesterly boundary line of Hunters Point Naval Dry Docks to a point which is the point of intersection of said Northwesterly boundary line and the United States Bulkhead line; thence along said United States Bulkhead Line to a point which is the point [20] of intersection of the said United States Bulkhead Line and the Southeasterly line of Coleman Street; thence Southwesterly along the Southeasterly line of said Coleman Street to a point which is the point of intersection of said Southeasterly line of Coleman Street and the Southwesterly line of McKinnon

Avenue; thence Northwesterly along the Southwesterly line of McKinnon Avenue to a point which is the point of intersection of the Southwesterly line of McKinnon Avenue and the Southeasterly line of Earl Street; thence Southwesterly on the Southeasterly line of Earl Street to a point which is the point of intersection of the said Southeasterly line of Earl Street and the Southwesterly line of Newcomb Avenue; thence Northwesterly on the Southwesterly line of Newcomb Avenue to a point which is the point of intersection of the Southwesterly line of Newcomb Avenue and the Southeasterly line of Fitch Street; thence Southwesterly along the Southeasterly line of Fitch Street to a point which is the point of intersection of the Southeasterly line of Fitch Street and the Northeasterly line of Oakdale Avenue, said point being the point of beginning, containing 230.5 acres of land, more or less.

And I do declare said lands to be taken under authority of the aforesaid acts of Congress; that the use to which said lands are to be put is the same as authorized by said acts; and that the estate hereby taken in said lands for the public use aforesaid is in fee simple,

And I, James Forrestal, Acting Secretary of the Navy, acting for and in behalf of the Secretary of the Navy, do hereby state that the sum of money estimated by me to be just compensation for all of said lands, improvements thereon and appurtenances thereunto belonging, is Seven Hundred Fifty-five Thousand, Three Hundred and 86/100 dollars (\$755,300.86), which said sum having been



appropriated by Congress is hereby deposited into the registry of the court for the use and [21] benefit of the persons entitled thereto, and that the names of the owners of said property or interest therein and the amount of just compensation for said lands and improvements thereon, which are hereby taken are shown on Schedule "A" which is attached hereto and made a part of this declaration of taking.

I am of the opinion that the ultimate award for the taking of said lands will be within the limits prescribed by Congress.

In Witness Whereof, the petitioner, by and through the said James Forrestal, Acting Secretary of the Navy, acting for and in behalf of the Secretary of the Navy, has caused this declaration of taking to be signed in its name and has caused the seal of the Navy Department to be affixed hereto on the 15th day of April, 1942, in the City of Washington, District of Columbia.

[Seal]

UNITED STATES OF AMERICA

By JAMES FORRESTAL

Acting Secretary of the Navy.

[22]

## SCHEDULE "A"

The names of the persons having title to or other interest in the lands described in the within declaration of taking, and the amounts estimated to be fair compensation for each respective ownership, including all improvements thereon, are as follows:

Owner	Block Number	Lot Number	Estimated Fair Compensation
Bethlehem Shipbuilding Company	4592	1,2,4	\$ 4,200.00
Mary Ward and Rose Ryan	4592	3	640.00
George P. Chan	4610	1	21,133.60
Mark E. Noon	4611	1	1,200.00
Albert Gianelli	4611	2	2,577.60
Bethlehem Shipbuilding Company	4611	3,4,5 6,7,8 10,14, 15,16, 19,20, 21	8,549.60
Walter Merrill, et al	4611	9	900.00
Shun Chuck Poy	4611	11	8,857.60
Kate C. Towle	4611	12	600.00
Janet McLeod	4611	13	300.00
Janet McLeod	4611	22	1,020.00
			[23]
Mark E. Noon	4611	17	900.00
George Hansen	4611	18	900.00
Warren Powers	4616	1	1,200.00
Bethlehem Shipbuilding Company	4616	2 to 10 incl., 12,14 to 17	13,298.00
Jennie M. Merrill, et al	4616	11	1,050.00
Lily Lerman	4616	13	900.00
Charles E. Long	4617	1	1,360.00
Walter S. Newhall	4617	2	1,116.00
Elmer A. Fridley	4617	3	320.00
Warren Powers	4617	3A,4	7,401.52

## Schedule "A"—(Continued)

Owner	Block Number	Lot Number	Estimated Fair Compensation
Edward J. Callan	4617	3B	\$ 760.08
Agostine Zari	4617	4A	466.80
Simon G. Bube	4617	4B,5	1,291.40
August H. Siemer	4617	6	1,976.20
Kernan Robson	4617	7A	703.24
James R. Martin	4617	7B	586.40
Agostino Zari	4617	8	600.00
George C. Ahlborn	4617	8A	600.00
Warren Powers	4617	8B	600.00
Chuck Lincoln Minor	4617	9	3,900.00
Percy A. Molfino	4617	9A	600.00
George Yaksich	4617	9B	640.00
South San Francisco Dock Company	4617	10,11	1,440.00
Check Way Hin	4617	12	480.00
[24]			
Louis Verkich	4617	12A	400.00
Vito Chiala	4617	13,13A, 14	21,886.00
Steve Poklar	4617	14A	755.60
Fred Assalino	4617	14B,15	10,860.80
William W. Witney	4617	16A	258.00
Kernon Robson	4617	16B	1.68
Mildred L. Goodsell	4634	1	980.00
Charles Gardner, et al	4634	2	900.00
Frank Mango	4634	3	3,748.80
Virgil Johnson	4634	4	560.00
Silas D. Harp	4634	4A	758.80
Houghton Company	4634	5,19	1,120.00
Angelo Castanzo	4634	5A	580.00
Daniel McSweeney	4634	6,7,8 9,15, 16,17	4,720.00
Clarence B. Eaton	4634	10	280.00
James M. Smith			
Andrew Zanetti	4634	11,12	560.00
Maria Karich	4634	13	3,405.00
Gian Vidlich	4634	14	240.00



## Schedule "A"—(Continued)

Owner	Block Number	Lot Number	Estimated Fair Compensation
W. R. Jameson	4634	14A	\$ 2,385.50
J. M. Klobucar	4634	18	960.00
Virginia Barca	4634	20	560.00
John Gauci	4634	20A,21	560.00
Charles Madgwick	4634	21A	660.00
Frank Machado	4634	21B	280.00
[25]			
Alfred Seligman	4635	1	3,148.00
Walter J. Silva	4635	2,3, 3A,4	1,560.00
M. E. Gorter	4635	5,6, 14A,15	2,040.00
Joseph D. Toohig	4635	7	720.00
William L. Brown	4635	8,9	1,500.00
Chan Lam	4635	10,11	5,064.00
Edgar McLaren	4635	12	600.00
Helen V. Mau	4635	13,13A 13B	2,789.60
Beatrice Cuneo	4635	14	200.00
State of California	4635	15	200.00
James I. Downey, et al	4635	17	200.00
J. G. James Co.	4635	18	600.00
Orral E. Carrere	4640	1	320.00
Peter Lors, et al	4640	1A	160.00
Arthur Viargues	4640	2,2A	360.00
Charles Bevan	4640	3	280.00
Mary Cunningham	4640	4	468.00
Donald Stuart	4640	5,17A	1,084.00
Ralph C. Smith	4640	5A	1,535.20
Edward Bergold	4640	6	440.00
Albert W. McKinney	4640	7	3,317.60
Hu Wai Kee	4640	8	6,680.00
Paul Nelson	4640	9	440.00
Rose Cavanagh			
Olive Wilson	4640	10	220.00

[26]

## Schedule "A"—(Continued)

Owner	Block Number	Lot Number	Estimated Fair Compensation
J. L. Tomkins	4640	10A	\$ 2,820.00
Rex R. Wilson	4640	10B	220.00
Byron B. Tomkins	4640	10C	\$ 2,736.80
M. Roodhouse	4640	11	720.00
Loo Yee Ling Shee	4640	12	780.00
Jack Robinson	4640	13	1,564.80
Pedro Longa	4640	14	240.00
Rosa M. Bayer	4640	14A	480.00
Jane M. O'Gara	4640	17	2,216.00
Herbert F. Buckley	4640	18	5,240.00
Moses Yang	4641	1	405.00
William W. Browne	4641	1A	2,129.60
Mary C. Hogan	4641	2	1,612.00
Odie Sterner	4641	2A	2,201.60
Louis Colton	4641	3	560.00
Joseph Yaich	4641	3A,4	2,944.00
Mary E. Christiansen	4641	4A	1,140.00
Arthur F. Stevens	4641	5	451.20
Albert Lise	4641	5A	280.00
Sophie Hamilton	4641	5B	2,416.80
A. A. Cornell	4641	6	280.00
M. Diehl	4641	6A	280.00
Jennabelle Delaney	4641	6B	280.00
Till Toms	4641	7,7A,7B	840.00
Oscar Lewis	4641	8	280.00
			[27]
David LeVake	4641	8B	280.00
Thomas A. Nelson	4641	8A	280.00
Claire Brown	4641	9	420.00
Gardner A. Dailey	4641	9A	440.00
Warren Whitney	4641	10,11	860.00
George G. Molena	4641	11,12	840.00
Raoul Bozio	4641	14	840.00
I. J. Piazza	4641	15	2,453.60
Paul Paulini	4641	15A	5,332.00
Seferino Rivera	4641	16	560.00
Ameda Grappali	4641	17	860.00
City of San Francisco	4658	1	2,320.00
Thomas Merculis	4658	2,2A	1,826.00
Enka Winup	4658	2B,3	1,044.00
Arthur B. Willis	4658	3A,3B	400.00

## Schedule "A"—(Continued)

Owner	Block Number	Lot Number	Estimated Fair Compensation
South San Francisco Dock Company M. Burns	4658	4,5	\$ 840.00
Ray T. Burke	4658	6	200.00
John Miley	4658	6A,6B	1,982.40
Joseph D. Toohig	4658	7,8	1,200.00
F. D. Stoller	4658	9	720.00
Oscar Lewis	4658	10	960.00
Juanita Dowd	4658	11,12	1,680.00
Pedro Nava	4658	13,13A,13B	840.00
Robert Gain	4658	14	1,080.00

[28]

William P. Shields	4658	14A,15	1,640.00
Arthur P. Stevens	4658	15A	1,600.00
Maud McLaughlin	4658	16	840.00
G. W. McKinney	4659	1	207.60
Patricia C. Kirk	4659	1A	207.60
State of California	4659	2	420.00
Emile Nagard	4659	3	821.60
G. W. McKinney	4659	3A	1,182.60
Amanda W. Felt	4659	4	420.00
Amanda W. Felt	4659	15	420.00
Karl A. Karn	4659	5	420.00
Karl A. Kern	4659	14	420.00
M. Diehl	4659	6	400.00
Fred D. Carrier	4659	6A	200.00
E. Stevenson	4659	7	600.00
H. S. Smith	4659	8,8A	720.00
J. F. Dowling	4659	8B	200.00
Madeline Burke	4659	9	1,320.00
Reint Lingerma	4659	9A,9B	1,820.00
Fred I. Kemm	4659	10,10A	440.00
Rudolph Palm	4659	10B	220.00
J. F. Dowling	4659	11	600.00
Albert Fernandez	4659	12	1,375.20
E. J. Jackson	4659	12A	1,220.80
Eva M. Dillon	4659	13	200.00
Albert L. Johnson	4659	13A	280.00

[29]

## Schedule "A"—(Continued)

Owner	Block Number	Lot Number	Estimated Fair Compensation
Florence G. Perrin	4659	16	\$ 420.00
South San Francisco Dock Company	4665	1	2,520.00
Claude Rosenberg et al.	4665	2,9	840.00
City Title Insurance Company	4665	3,3A, 8,8A,2B	1,092.00
Abbey Frink Bickel	4665	4,7	840.00
Walter Sarlin	4665	5	140.00
Dominic Serio	4665	5A,5B	180.00
J. F. Dowling	4665	6	420.00
George M. Moore	4665	10	460.00
Cal. Scott, et al	4665	11,12	428.00
Katherina Stauffer	4666	1,3,17, 18	1,600.00
William T. G. Jordan	4666	2,4	640.00
Walter F. Sarlin	4666	5	320.00
John O'Neil	4666	5A	922.00
Naomi E. Lee	4666	6	1,126.40
James Greco	4666	7	480.00
William Ede Company	4666	8,13	960.00
Bernard Bernardo	4666	9	160.00
Joseph Barajas	4666	9A	1,300.00
Ray T. Burke	4666	9B	160.00
Cornelius Tamony	4666	10,11	1,080.00
Joseph Arevalo	4666	12	1,058.72
Alfred M. Conley	4666	12A	600.00
Jose Cesena	4666	12B	180.00
[30]			
Shilling Est. Company	4666	14	480.00
Nick Pork	4666	15,16B	480.00
August Piercz	4666	15A	160.00
John Rosado	4666	15B	160.00
Robert W. Chase	4666	16,16A	794.48
Thomas A. Ryan	4683	1,2	1,080.00
Walter F. Sarlin	4683	3,3A	2,480.00
Walter F. Sarlin	4683	16,16B	320.00
Gino L. Dentesano	4683	4,5,5A 5B	1,788.00

## Schedule "A"—(Continued)

Owner	Block Number	Lot Number	Estimated Fair Compensation
Raymond F. Gillette	4683	6,6A,6B	\$ 3,258.40
Joseph Valez	4683	7	400.00
Rafela Valez			
S. Rivera	4683	7A	1,140.00
F. Rivera			
J. Portelo	4683	8,8A	400.00
C. Burdick	4683	8B	200.00
C. Burdick	4683	9	1,680.00
C. F. McCann	4683	9A	1,605.60
Minnie Hildbrecht	4683	10,14	1,200.00
Katherina Stauffer	4683	11	480.00
Jochin Sass	4683	12	480.00
Cornelius Tamony	4683	13	480.00
Houghton Company	4683	15	480.00
Manuel Farrell	4683	16A	1,048.00
South San Francisco	4684	1	
Dock Company			[31]
Andrew D. Zanetti	4684	1A,2,2A	5,080.00
William T. G. Jordan	4684	3	200.00
Marie S. Sigall	4684	4	400.00
Helen S. Smith			
Alice M. Begley	4684	5	440.00
Herbert C. Rodenberger	4684	6	420.00
Lily O'Connor, et al	4694	1,2	1,020.00
Oscar Sarlin	4694	3	420.00
Katherina Stauffer	4694	4,5,6,7, 8,9,16	3,120.00
Mercantile Trust Co.	4694	10	600.00
Alfred Tobin, Trs.	4694	11,12 13,14	2,400.00
Dorothy Jones	4694	15	200.00
Dorothy Jones	4694	15A	1,400.00
Ray T. Burke	4694	15B	1,320.00
South San Francisco	4590		
	4593		
	4610		
	45764		
	4591		
	4592		

## Schedule "A"—(Continued)

Owner	Block Number	Lot Number	Estimated Fair Compensation
	Tract Number		
South San Francisco	4663		
Dock Company	4664		
	4665		
	4684		
	4685		
	4686		
	4692		
	4693		
	4708		
	4709		
	4710		
	4711		
	4712		[32]
	4713		
	4720		
	4721		
	4722		
	4723		
	4724		
	4725		427,571.20
Estate of James M. McDonald	4567		1,448.00
c/o Mrs. Blythe McDonald			
Hayden,			
Los Angeles, Calif.			
Flora Vandenberg	4575		1,696.00
Western Title Ins. Co.,			
Muriel A. Branham, et al			
Stuart Kepner	4576A		1,696.00
Harvey M. Toy			
Muriel A. Branham, et al			
Muriel A. Branham, et al	4590		200.00
Estate of James M.	4662		957.00
McDonald			
Peter Dean Company	4663		295.80
Betty J. Horn	4686		696.00
Hermenda Joost			
Lester L. Roth			
Rennée Bransten			

## Schedule "A"—(Continued)

Owner	Block Number	Lot Number	Estimated Fair Compensation
Henry Investment Co., c/o Thornwall Mullally, Crocker First National Bank Building	4687		957.00
Henry Investment Co.	4688		149.64
	4689		334.08
	4690		957.00
Muriel A. Branham, et al	4691		957.00
Phillip Paschel			
Muriel Jacobs	4692		62.64
Wells Fargo Bank & Union Trust Company	4713		476.76
			[33]
James Madison Estate Company, Matilda T. Altvater Sarah Gleeson	4714		957.00
Robert W. Kelley	4715		957.00
Winifred S. Kelly			
Elma D. Goodman			
Walter E. Dakin			
Elsa Everding			
James S. Hutchinson	4716		528.96
C. A. Wellman	4717		772.56
John H. Stahl	4718		957.00
State of California	4719		957.00
Elizabeth Harms			
Johanna E. MacNicol			
Martha Chase Holland			
Nellie Barrett, et al	4720		888.40
Rosa Cheim, et al			
City of San Francisco, California			1.00

For any and all right, title and interest in  
and to the land described in the attached de-  
claration of taking and appurtenances there-  
unto belonging.

Total.....\$755,300.86

[34]



[Title of District Court and Cause.]

## JUDGMENT

The United States of America having this day made application to the Court to enter a Judgment on the Declaration of Taking heretofore filed this day, and for an Order fixing the date when possession of the property herein described is to be surrendered to the United States of America and upon consideration thereof and of the Condemnation Complaint filed herein, said Declaration of Taking, the statutes in such cases made and provided, and it appearing to the satisfaction of the Court:

First: That the United States of America is entitled to acquire property by eminent domain for the purposes as set out and prayed for in said Complaint;

Second: That a Complaint in Condemnation was filed at the request of the Acting Secretary of the Navy, and authority empowered by law to acquire the land described in said Complaint, and also under authority of the Attorney General of the United States;

Third: That said Complaint and Declaration of Taking state the authority under which, and the public use for which said land was taken, that the Acting Secretary of the Navy is the person duly authorized and empowered by law to acquire land such as is described in the Complaint for use by the United States of America for the expansion of facilities at the present Hunter's Point Naval



Dry Dock, San Francisco, California, and that the Attorney General of the United States is the person authorized by law to direct the institution of such condemnation proceedings. [38]

Fourth: That a proper description of the lands sought to be taken, sufficient for identification thereof, is set out in said Declaration of Taking;

Fifth: That said Declaration of Taking contains a statement of the estate or interest in said lands taken for such public use;

Sixth: That a plan showing the lands taken is incorporated in said Declaration of Taking;

Seventh: That a statement is contained in said Declaration of Taking of a sum of money estimated by said Acting Secretary of Navy to be just compensation for said land in the amount of Seven Hundred Fifty-Five Thousand Three Hundred and 86/100 Dollars (\$755,300.86) and that said sum was deposited in the Registry of this Court for the use of the persons entitled thereto, upon and at the time of the filing of said Declaration of Taking;

Eighth: That a statement is contained in said Declaration of Taking that the amount of the ultimate award for compensation for the taking of said property, in the opinion of said Acting Secretary of the Navy of the United States of America, will be within any limits prescribed by Congress as to the price to be paid therefor;

Ninth: That the land hereinafter described which is the subject of this action, consists of a number of smaller lots or parcels in a number of different ownerships; that the names of the persons

having title to or other interest in the lands hereinafter described, a description of their respective lots or parcels, and the amounts estimated to be fair compensation for each respective ownership [39] including all improvements thereon, are shown on Schedule "A" hereto attached and made a part of this Judgment:

Now, Therefore, It Is Ordered, Adjudged And Decreed that the title to those certain lands in the City and County of San Francisco, State of California, more particularly described as follows: [40]

Beginning at the point of intersection of the northeasterly line of Oakdale Ave. and the southeasterly line of Fitch Street, said point also being the northwesterly corner of Block 4725 as shown on that certain map entitled "Naval Dry Docks, Hunter's Point, California, Acquisition of Land," Numbered C-1892-5 and prepared by the Public Works Administration and from said point of beginning southeasterly along the northeasterly line of Oakdale Ave. and the projection thereof to a point which is the point of intersection of the line projected from the northeasterly line of Oakdale Ave. and the United States Bulkhead Line; thence in a northeasterly direction along said United States Bulkhead Line to a point which is the point of intersection of the United States Bulkhead Line and the southwesterly boundary line of the Hunter's Point Naval Dry Docks; thence northwesterly along said southwest boundary line to a point which is the most westerly corner of the lands of said Hunter's Point Naval Dry Docks; thence northeasterly

along the northwesterly boundary line of Hunter's Point Naval Dry Docks to a point which is the point of intersection of said northwesterly boundary line and the United States Bulkhead Line; thence along said United States Bulkhead Line to a point which is the point of intersection of the said United States Bulkhead Line and the southeasterly line of Coleman Street; thence southwesterly along the southeasterly line of said Coleman Street to a point which is the point of intersection of said southeasterly line of Coleman Street and the southwesterly line of McKinnon Ave.; thence northwesterly along the southwesterly line of McKinnon Ave. to a point which is the point of intersection of the southwesterly line of McKinnon Ave. and the southeasterly line of Earl Street; thence southwesterly on the southeasterly line of Earl Street to a point which is the point of intersection of said southeasterly line of Earl Street and the southwesterly line of Newcomb Ave.; thence northwesterly on the southwesterly line of Newcomb Ave. to a point which is the point of intersection of the southwesterly line of Newcomb Ave. and the southeasterly line of Fitch Street; thence southwesterly along the southeasterly line of Fitch Street to a point which is the point of intersection of the southeasterly line of Fitch Street and the northeasterly line of Oakdale Ave. said point being the point of beginning containing 230.5 acres, more or less.

[41]

vested in the United States of America in fee simple absolute, and the right to just compensation therefor vested in the persons entitled thereto, upon the

filing of said Declaration of Taking and the depositing in the Registry of this Court the sum of Seven Hundred Fifty-Five Thousand, Three Hundred and 86/100 (\$755,300.86), as hereinabove recited; that said lands are deemed to have been taken and condemned for the public use of the plaintiff as authorized by law and are necessary and suited to said use; that just compensation for the taking of said lands shall be ascertained and awarded by judgment herein.

It Is Further Ordered, Adjudged and Decreed that the United States of America and its agents are entitled to immediate possession of the above described property and defendants and all persons in possession of said property, or claiming an interest therein, are hereby ordered to surrender said property forthwith to the United States, and this cause is held open for such further orders and decrees as may be necessary in the premises.

Done in open Court, this 22nd day of April, 1942.

MICHAEL J. ROCHE,

Judge, United States District  
Court, Northern District of  
California. [42]

### SCHEDULE "A"

[Printer's Note: Schedule "A" attached to the Judgment is not reproduced here, as it is identical with Schedule "A" attached to the Declaration of Taking, and printed in full at pages 23 to 31 of this printed record.]

[Endorsed]: Filed April 22, 1942.

[Title of District Court and Cause.]

AMENDMENT TO DECLARATION  
OF TAKING

Whereas, the above-captioned condemnation proceeding has been instituted and a declaration of taking has been filed;

Whereas, subsequent information indicates that certain errors have been made in the estimation of the just compensation;

Now, Therefore, I, James Forrestal, Acting Secretary of the Navy, acting for and in behalf of the Secretary of the Navy, pursuant to the leave of court first being obtained, do hereby cause to be filed an amendment to the declaration of taking in order to revise the amounts of estimated compensation as set forth in Schedule "A".

In Witness Whereof, the Petitioner, by and through the Acting Secretary of the Navy, acting for and in behalf of the Secretary of the Navy has caused this amendment to be signed and has caused the seal of the Department of the Navy to be affixed hereto on the 16th day of November, 1942, in the City of Washington, District of Columbia.

[Seal] UNITED STATES OF AMERICA

By JAMES FORRESTAL

Acting Secretary of the Navy.

[56]



filing of said Declaration of Taking and the depositing in the Registry of this Court the sum of Seven Hundred Fifty-Five Thousand, Three Hundred and 86/100 (\$755,300.86), as hereinabove recited; that said lands are deemed to have been taken and condemned for the public use of the plaintiff as authorized by law and are necessary and suited to said use; that just compensation for the taking of said lands shall be ascertained and awarded by judgment herein.

It Is Further Ordered, Adjudged and Decreed that the United States of America and its agents are entitled to immediate possession of the above described property and defendants and all persons in possession of said property, or claiming an interest therein, are hereby ordered to surrender said property forthwith to the United States, and this cause is held open for such further orders and decrees as may be necessary in the premises.

Done in open Court, this 22nd day of April, 1942.

MICHAEL J. ROCHE,

Judge, United States District  
Court, Northern District of  
California. [42]

#### SCHEDULE "A"

[Printer's Note: Schedule "A" attached to the Judgment is not reproduced here, as it is identical with Schedule "A" attached to the Declaration of Taking, and printed in full at pages 23 to 31 of this printed record.]

[Endorsed]: Filed April 22, 1942.



[Title of District Court and Cause.]

AMENDMENT TO DECLARATION  
OF TAKING

Whereas, the above-captioned condemnation proceeding has been instituted and a declaration of taking has been filed;

Whereas, subsequent information indicates that certain errors have been made in the estimation of the just compensation;

Now, Therefore, I, James Forrestal, Acting Secretary of the Navy, acting for and in behalf of the Secretary of the Navy, pursuant to the leave of court first being obtained, do hereby cause to be filed an amendment to the declaration of taking in order to revise the amounts of estimated compensation as set forth in Schedule "A".

In Witness Whereof, the Petitioner, by and through the Acting Secretary of the Navy, acting for and in behalf of the Secretary of the Navy has caused this amendment to be signed and has caused the seal of the Department of the Navy to be affixed hereto on the 16th day of November, 1942, in the City of Washington, District of Columbia.

[Seal] UNITED STATES OF AMERICA

By JAMES FORRESTAL

Acting Secretary of the Navy.

[56]

## SCHEDULE "A"

The names of the persons having title to or other interest in the lands described in the declaration of taking, and the amounts estimated to be fair compensation for each respective ownership, including all improvements thereon, are as follows:

Parcel Number	Owner	Block Number	Lot Number	Estimated Fair Compensation
1	Bethlehem Shipbuild-	4692	1,2,4	\$36,000.00
6	ing Company	4611	3,4,5	
			6,7,8	
			10,14	
			15,16	
			19,20	
			21	
15	Bethlehem Shipbuild-	4616	2 to 10	
	ing Company		incl.,	
			12,14 to	
			17	
2	Mary Ward and	4592	3	1,000.00
	Rose Ryan			
3	George P. Chan	4610	1	26,000.00
4	Mark E. Noon	4611	1	1,600.00
5	Albert Gianelli	4611	2	3,500.00
7	Walter Merril, et al.	4611	9	1,250.00
8	Shun Chuck Poy	4611	11	12,000.00
9	Kate C. Towle	4611	12	1,000.00
10	Janet McLeod	4611	13	500.00
11	Janet McLeod	4611	22	1,300.00
12	Mark E. Noon	4611	17	1,650.00
13	George Hansen	4611	18	1,250.00
14	Warren Powers	4616	1	1,250.00
16	Jennie M. Merril, et al.	4616	11	1,350.00
17	Lily Lerman	4616	13	1,125.00
[57]				
18	Charles E. Long	4617	1	1,700.00
19	Walter S. Newhall	4617	2	1,635.00
20	Elmer A. Fridley	4617	3	425.00
21	Warren Powers	4617	3A,4	9,500.00

## Schedule "A"—(Continued)

Parcel Number	Owner	Block Number	Lot Number	Estimated Fair Compensation
22	Edward J. Callan	4617	3B	\$ 800.00
23	Agostino Zari	4617	4A	600.00
24	Simon G. Bube	4617	4B,5	1,614.25
25	August H. Siemer	4617	6	2,500.00
26	Kernan Robson	4617	7A	900.00
27	James R. Martin	4617	7B	750.00
28	Agostino Zari	4617	8	750.00
29	George C. Ahlborn	4617	8A	750.00
30	Warren Powers	4617	8B	750.00
31	Chuck Lincoln Minor	4617	9	5,000.00
32	Percy A. Molfino	4617	9A	750.00
33	George Yaksich	4617	9B	800.00
34	South San Francisco Dock Company	4617	10,11	1,800.00
35	Check Way Hin	4617	12	600.00
36	Louis Verkich	4617	12A	500.00
37	Vito Chiala	4617	13,13A, 14	27,000.00
38	Steve Poklar	4617	14A	950.00
39	Fred Assalino	4617	14B,15	13,500.00
40	William W. Witney	4617	16A	322.50
41	Kernan Robson	4617	16B	2.00
42	Mildred L. Goodsell	4634	1	1,200.00
43	Charles Gardner, et al.	4634	2	1,325.00
[58]				
44	Frank Magno	4634	3	4,550.00
45	Virgil Johnson	4634	4	6,000.00
46	Silas D. Harp	4634	4A	1,233.00
47	Houghton Company	4634	5,19	1,500.00
48	Angelo Costanzo	4634	5A	700.00
49	Daniel McSweeney	4634	6,7,8, 9,15 16,17	7,000.00
50	Clarence D. Eaton James M. Smith	4634	10	400.00
51	Andrew Zanetti	4634	11,12	8,000.00
206		4684	1A,2,2A	
52	Maria Karich	4634	13	4,500.00
53	Gian Vidulich	4634	14	300.00

## Schedule "A"—(Continued)

Parcel Number	Owner	Block Number	Lot Number	Estimated Fair Compensation
54	W. R. Jameson	4634	14A	\$ 2,900.00
55	J. M. Klobucar	4634	18	1,200.00
56	Virginia Barca	4634	20	775.00
57	John Gauci	4634	20A,21	750.00
58	Charles Madgwick	4634	21A	975.00
59	Frank Machado	4634	21B	400.00
60	Alfred Seligman	4635	1	4,000.00
61	Walter J. Silva	4635	2,3 3A,4	2,000.00
62	M. E. Gorter	4635	5,6, 14A,15	2,500.00
63	Joseph D. Toohig	4635	7	900.00
64	William L. Brown	4635	8,9	2,000.00
65	Chan Lam	4635	10,11	6,500.00
66	Edgar McLaren	4635	12	750.00
67	Helen V. Mau	4635	13,13A 13B	750.00
				[59]
68	Beatrice Cuneo	4635	14	3,300.00
69	State of California	4635	16	250.00
70	James I. Downey, et al.	4635	17	250.00
71	J. G. James Company	4635	18	700.00
72	Oral E. Carrere	4640	1,1B	400.00
73	Peter Lore, et al.	4640	1A	200.00
74	Arthur Viargues	4640	2,2A	500.00
75	Charles Bevan	4640	3	400.00
76	Mary Cunningham	4640	4	550.00
77	Donald Stuart	4640	5,17A	2,165.00
78	Ralph C. Smith	4640	5A	2,975.00
79	Edward Bergold	4640	6	500.00
80	Albert W. McKinney	4640	7	4,360.00
81	Hu Wai Kee	4640	8	8,285.00
82	Paul Nelson	4640	9	550.00
	Rose Cavanaugh			
83	Olive Wilson	4640	10	300.00
84	J. L. Tomkins	4640	10A	3,900.00
85	Rex R. Wilson	4640	10B	220.00
86	Byron B. Tomkins	4640	10C	3,750.00
87	M. Roodhouse	4640	11	900.00

## Schedule "A"—(Continued)

Parcel Number	Owner	Block Number	Lot Number	Estimated Fair Compensation
88	Loo Yee Ling Shee	4640	12	\$ 1,200.00
89	Jack Robinson	4640	13	1,564.80
90	Pedro Longa	4640	14	300.00
91	Rosa M. Bayer	4640	14A	600.00
92	Jane M. O'Gara	4640	17	2,800.00
93	Herbert F. Buckley	4640	18	6,500.00
[60]				
94	Moses Yang	4641	1	1,200.00
95	William W. Browne	4641	1A	3,050.00
96	Mary C. Hogan	4641	2	2,045.00
97	Odie Sterner	4641	2A	2,624.00
98	Louis Colton	4641	3	700.00
99	Joseph Yaich	4641	3A,4	3,750.00
100	Mary M. Christiansen	4641	4A	1,300.00
101	Arthur F. Stevens	4641	5	2,800.00
134		4658	15A	
102	Albert Lise	4641	5A	400.00
103	Sophie Hamilton	4641	5B	3,165.00
104	A. A. Cornell	4641	6	400.00
105	M. Diehl	4641	6A	350.00
106	Jessabelle Delaney	4641	6B	350.00
107	Till Toms	4641	7,7A,7B	1,500.00
108	Oscar Lewis	4641	8	825.00
109	David LeVake	4641	8B	
110	Thomas A. Nelson	4641	8A	400.00
111	Claire Brown	4641	9	625.00
112	Gardner A. Dailey	4641	9A	700.00
113	Warren Whitney	4641	10,11	1,350.00
114	George G. Molema	4641	12,13	1,500.00
115	Raoul Bozio	4641	14	1,150.00
116	I. J. Piazza	4641	15	3,500.00
117	Paul Paulini	4641	15A	5,332.00
118	Scferino Rivera	4641	16	750.00
119	Amedeo Grappali	4641	17	900.00
120	City of San Francisco	4658	1	1.00
[61]				
121	Thomas Merculis	4658	2,2A	2,100.00
122	Enka Winup	4658	2B,3	1,300.00

## Schedule "A"—(Continued)

Parcel Number	Owner	Block Number	Lot Number	Estimated Fair Compensation
123	Arthur B. Willis	4658	3A,3B	\$ 500.00
124	South San Francisco Dock Company, M. Burns	4658	4,5	1,250.00
125	Ray T. Burke	4658	6	260.00
126	John Miley	4658	6A,6B	2,550.00
127	Joseph D. Toohig	4658	7,8	1,550.00
128	F. D. Stoller	4658	9	960.00
129	Oscar Lewis	4658	10	1,325.00
130	Juanita Dowd	4658	11,12	2,200.00
131	Pedro Nava	4658	13,13A,13B	1,200.00
132	Robert Gain	4658	14	1,500.00
133	William P. Shields	4658	14A,15	1,800.00
135	Maud McLaughlin	4658	16	1,050.00
136	G. W. McKinney	4659	1	300.00
137	Patricia C. Kirk	4659	1A	300.00
138	State of California	4659	2	1.00
139	Emile Nagard	4650	3	3,200.00
140	G. W. McKinney	4659	3A	
141	Amanda W. Felt	4659	4	1,160.00
142		4659	15	
143	Karl A. Kern	4659	5	1,000.00
144		4659	14	
145	M. Diehl	4659	6	500.00
146	Fred D. Carrier	4659	6A	250.00
147	E. Stevenson	4659	7	750.00
148	H. S. Smith	4659	8,8A	825.00
[62]				
149	J. F. Dowling	4659	8B	250.00
150	Madeline Burke	4659	9	1,925.00
151	Reint Lingerma	4659	9A,9B	2,300.00
152	Fred I. Kemm	4659	10,10A	600.00
153	Rudolph Palm	4659	10B	275.00
154	J. F. Dowling	4659	11	750.00
155	Albert Fernandez	4659	12	1,700.00
156	E. J. Jackson	4659	12A	2,000.00
157	Eva M. Dillon	4659	13	660.00
158	Albert L. Johnson	4659	13A	
159	Florence G. Perrin	4659	16	500.00



## Schedule "A"—(Continued)

Parcel Number	Owner	Block Number	Lot Number	Estimated Fair Compensation
160	South San Francisco Dock Company	4665	1	\$ 2,060.00
161	Claude Rosenberg, et al.	4665	2,9	1,250.00
162.A	Jeanette Camp	4665	3	230.00
162-B	William Von Borstel	4665	3A,8	1,000.00
162-C	Harry S. Smith Ray T. Burke	4665	8A,8B	460.00
163	Abbey Frink Bickel	4665	4,7	1,100.00
164	Walter Sarlin	4665	5	4,400.00
171		4666	5	
189		4683	3,3A	
190		4683	16,16B	
165	Dominie Serio	4665	5A,5B	500.00
166	J. F. Dowling	4665	6	625.00
167	George M. Moore	4665	10	600.00
168	Cal. Scott, et al.	4665	11,12	600.00
169	Katherina Stauffer	4666	1,3,17,18	1,600.00
170	William T. O. Jordan	4666	2,4	800.00
172	John O'Neil	4666	5A	1,050.00
173	Naomi E. Lee	4666	6	1,400.00
174	James Greco	4666	7	700.00
[63]				
175	William Ede Company	4666	8,13	1,400.00
176	Bernard Bernardo	4666	9	200.00
177	Joseph Barajas	4666	9A	1,750.00
178	Ray T. Burke	4666	9A	230.00
179	Cornelius Tamony	4666	10,11	2,300.00
202		4683	13	
180	Joseph Arvalo	4666	12	1,300.00
181	Alfred M. Conley	4666	12A	730.00
182	Jose Cesena	4666	12B	250.00
183	Shilling Est. Co.	4666	14	600.00
184	Nick Pork	4666	15,16B	875.00
185	August Pierez	4666	15A	200.00
186	John Rosado	4666	15B	225.00
187	Robert W. Chase	4666	16,16A	1,000.00
188	Thomas A. Ryan	4683	1,2	1,400.00
191	Gino L. Dentesano	4683	4,5,5A,5B	2,250.00

## Schedule "A"—(Continued)

Parcel Number	Owner	Block Number	Lot Number	Estimated Fair Compensation
192	Raymond F. Gillette	4683	6,6A,6B	\$ 3,770.00
193	Joseph Valez Rafela Valez	4683	7	500.00
194	S. Rivera F. Rivera	4683	7A	1,600.00
195	J. Portelo	4683	8,8A	500.00
196	C. Burdick	4683	8B	2,550.00
197		4683	9	
198	C. F. McCann	4683	9A	2,180.00
199	Minnie Hildbrecht	4683	10,14	1,500.00
200	Katherina Stauffer	4683	11	600.00
201	Jochim Sass	4683	12	700.00
203	Houghton Company	4683	15	600.00
[64]				
204	Manuel Farrell	4683	16A	1,730.00
205	South San Francisco Dock Company	4684	1	3,900.00
207	William T. G. Jordan	4684	3	250.00
208	Marie S. Sigall Helen S. Smith	4684	4	500.00
209	Alice M. Begley	4684	5	625.00
210	Herbert C. Rodenberger	4684	6	625.00
211	Lily O'Connor, et al.	4694	1,2	1,380.00
212	Oscar Sarlin	4694	3	635.00
213	Katherina Stauffer	4694	4,5,6,7,8, 9,16	4,000.00
214	Mercantile Trust Co.	4694	10	3,750.00
215		4694	11,12,13, 14	
216	Dorothy Jones	4694	15	2,150.00
217		4694	15A	
218	Ray T. Burke	4694	15B	1,850.00
219	South San Francisco Dock Company	4590	Portion	6,250.00
220	South San Francisco Dock Company	4593		8,000.00
221	South San Francisco Dock Company	4610	1A	9,080.00

## Schedule "A"—(Continued)

Parcel Number	Owner	Block Number	Lot Number	Estimated Fair Compensation
222	South San Francisco Dock Company	4576-A		\$ 1.00
223	South San Francisco Dock Company	4591		11,500.00
224	South San Francisco Dock Company	4592	5	8,970.00
225	South San Francisco Dock Company	4663	Portion	5,341.00
226	South San Francisco Dock Company	4664		10,295.00
[65]				
227	South San Francisco Dock Company	4685		2,750.00
228	South San Francisco Dock Company	4686	Portion	785.00
229	South San Francisco Dock Company	4692	Portion	1,650.00
230	South San Francisco Dock Company	4693		4,145.00
231	South San Francisco Dock Company	4709		210.00
232	South San Francisco Dock Company	4710		4,958.00
233	South San Francisco Dock Company	4711		4,958.00
234	South San Francisco Dock Company	4712		2,795.00
235	South San Francisco Dock Company	4713	Portion	900.00
236	South San Francisco Dock Company	4720	Portion	150.00
237	South San Francisco Dock Company	4721		1,750.00
238	South San Francisco Dock Company	4722		2,750.00
239	South San Francisco Dock Company	4723		2,750.00
240	South San Francisco Dock Company	4724		4,958.00

## Schedule "A"—(Continued)

Parcel Number	Owner	Block Number	Lot Number	Estimated Fair Compensation
241	South San Francisco Dock Company	4725		\$ 4,475.23
242	South San Francisco Dock Company	4612-A		185,000.00
243	Estate of James M. McDonald, c/o Mrs. Blythe McDonald Hayden, Los Angeles, Calif.	4567		2,000.00
				[66]
244	Flora Vandenberg Western Title Ins. Co., Muriel A. Branham, et al.	4575		2,500.00
245-A	Stuart Kepner	4576A	Portion	1,570.00
245-B	Harvey M. Toy	4576A	Portion	1,000.00
246	Muriel A. Branham, et al.	4590	Portion	250.00
247	Estate of James M. McDonald	4662		1,200.00
248	Peter Dean Company	4663	Portion	500.00
249	Betty J. Horn Hermanda Joost Lester L. Roth Rennee Bransten	4686	Portion	900.00
250	Henry Investment Co., c/o Thornwall Mullally, Crocker First National Bank Building	4687		1,200.00
251	Henry Investment Co.	4688		200.00
252	Henry Investment Co.	4689		500.00
253	Henry Investment Co.	4690		1,200.00
254	Muriel A. Branham, et al.	4691		1,200.00
255	Muriel Jacobs	4692	Portion	100.00
256	Wells Fargo Bank & Union Trust Company	4713	Portion	600.00
257	James Madison Estate Company Matilda T. Altvater Sarah Gleeson	4714		1,250.00

## Schedule "A"—(Continued)

Parcel Number	Owner	Block Number	Lot Number	Estimated Fair Compensation
258	Robert W. Kelly Winifred S. Kelly Elma D. Goodman Walter E. Dakin Elsa Everding	4715		\$ 1,250.00
259	James S. Hutchinson	4716		700.00
				[67]
260	C. A. Wellman	4717		1,000.00
261	John H. Stahl	4718		1,250.00
262	State of California Elizabeth Harms Johanna E. MacNicol Martha Chase Holland	4719		1.00
263	Albert Gallatin	Portion of 4720		130.00
264	Malvena Gallatin			
264	Frank A. Leach	Portion of 4720		600.00
265	Rosa Chaim, et al.	Portion of 4720		75.00
266	Nellie Barrett, et al	Portion of 4720		500.00
City of San Francisco, California				1.00
For any and all right, title and interest in and to the land described in the de- claration of taking and appurtenances belonging.				
Total.....				\$726,965.78

[Endorsed]: Filed Dec. 12, 1942. [68]

[Title of District Court and Cause.]

ANSWER OF FRANK M. WEBER

Now comes Frank M. Weber and answering the complaint on file herein admits, denies and alleges as follows:

I.

That Frank M. Weber is the owner in fee simple absolute and entitled to the possession of the lots shown on the plat attached to said complaint as Lot 9 in Block 4611 and Lot 11 in Block 4616.

II.

That the value of said lots is not known to this defendant but that this defendant is willing that the value thereof may be determined by the above entitled Court in this action, and consents to accept such value as may be so determined in condemnation, together with interest and his costs of suit.

[69]

Wherefore, said defendant prays that the value of his said lots be determined in the judgment of this Court, and that said value be paid to this defendant, together with interest and for his costs of suit.

FRANK M. WEBER

M. WEBER,

Attorney for defendant

Frank M. Weber [70]



State of California,  
City and County of San Francisco—ss.

Frank M. Weber, being duly sworn, deposes and says:—

That he is one of the defendants in the above entitled action; that he has read the foregoing answer and knows the contents thereof, and that the same is true of his own knowledge except as to the matters therein stated on information or belief, and as to those matters that he believes it to be true.

FRANK M. WEBER

Subscribed and sworn to before me this 3rd day of August, 1942.

[Seal] CATHERINE E. KEITH,  
Notary Public in and for the City and County of  
San Francisco, State of California.

Receipt of Service.

[Endorsed]: Filed Aug. 6, 1942. [71]

[Title of District Court and Cause.]

ANSWER OF DEFENDANTS EVA M. WELLS,  
OLGA K. NEWPORT, ERNEST H. KREY-  
ENHAGEN, JENNIE MAY MERRILL  
MILLER, SUED HEREIN AS JENNIE M.  
MERRILL AND AS JENNIE L. MERRILL,  
ALMA H. SILVA, LILLIAN ARNEY, SUED  
HEREIN AS LILLIAN HERRIFORD, AND  
LOWELL HERIFORD, SUED HEREIN AS  
LOWELL HERRIFORD, AND WALTER  
MERRILL

Come now the defendants Eva M. Wells, Olga K. Newport, Ernest H. Kreyenhagen, Jennie May Merrill Miller, sued herein as Jennie M. Merrill and as Jennie L. Merrill, Alma H. Silva by Lillian Arney, her general guardian, Lillian Arney, sued herein as Lillian Herriford, and Lowell Heriford, sued herein as Lowell Herriford, and Walter Merrill. and answering the complaint in condemnation on file herein, allege:

I.

That said defendants, together with Paul Merrill, [72] were at the time of the filing of the said complaint, to-wit, April 4th, 1942, and at the time of the judgment on the declaration of taking filed April 22nd, 1942, the owners in fee simple and entitled to the possession of those certain parcels of land situate in the City and County of San Francisco, State of California, described as follows:

Parcel 1:

Commencing at a point on the northeasterly line

of Fairfax avenue, distant thereon 75 feet southeasterly from the southeasterly line of Boalt street; running thence southeasterly and along said line of Fairfax avenue 75 feet; thence at a right angle northeasterly 100 feet; thence at a right angle northwesterly 75 feet; thence at a right angle southwesterly 100 feet to the point of commencement.

Being part of Block No. 108, South San Francisco Homestead and Railroad Association.

Parcel 2:

Commencing at a point on the southwesterly line of Fairfax avenue distant thereon 25 feet southeasterly from the southeasterly line of Boalt street; running thence southeasterly and along said line of Fairfax avenue 87 feet 6 inches; thence at a right angle southwesterly 100 feet; thence at a right angle northwesterly 87 feet 6 inches; thence at a right angle northeasterly 100 feet to the point of commencement.

Being part of Block No. 111 South San Francisco Homestead and Railroad Association.

That the two parcels of real property hereinabove described are a part of the property described in the complaint in condemnation and in the judgment of declaration of taking, being referred to in said judgment of taking as Parcel 7 and Parcel 16; that Parcel 1 hereinabove described was at the time of the judgment of declaration of taking of a value of \$1250.00; that the second parcel herein-

above described was at the time of the judgment of declaration of taking of a value of \$1350.00.

## II.

That Eva M. Wells was at all times herein mentioned the owner of an undivided  $24/70$ th interest in and to said property [73] that Olga K. Newport and Ernest H. Kreyenhagen were at all times herein mentioned the owners of an undivided  $24/70$ ths interest in and to said property; that Jennie May Merrill Miller, sued herein as Jennie M. Merrill and as Jennie L. Merrill, was at all times herein mentioned the owner of an undivided  $4/70$ ths interest in and to said property; that Alma H. Silva was at all times herein mentioned the owner of an undivided  $1-1/3/70$ ths interest in and to said property; that Lillian Arney, sued herein as Lillian Herriford, was at all times herein mentioned the owner of an undivided  $1-1/3/70$ ths interest in and to said property; that Lowell Heriford, sued herein as Lowell Herriford, was at all times herein mentioned the owner of an undivided  $1-1/3/70$ ths interest in and to said property; that Walter Merrill was at all times herein mentioned the owner of an undivided  $4-1/3/70$ ths interest in and to said property; that Paul Merrill was at all times herein mentioned the owner of an undivided  $9-2/3/70$ ths interest in and to said property.

## III.

That Alma H. Silva is an incompetent person, and after proceedings duly and regularly had in the State of California, in and for the County of

San Benito, Lillian Arney was appointed guardian of her person and estate; that said Lillian Arney duly qualified as such guardian, and was at the time of the commencement of this action, and ever since has been the duly appointed and qualified guardian of the person and estate of Alma H. Silva.

#### IV.

That prior to the commencement of the above entitled action Maria M. Kreyenhagen, Ernest H. Kreyenhagen and Olga K. Newport were the owners of an undivided 24/70ths interest [74] as joint tenants; that Maria M. Kreyenhagen died in the County of ..... State of California, on the ..... day of ..... 19.. and that by reason of her death her interest therein terminated, and ever since the ..... day of 19.. Ernest H. Kreyenhagen and Olga K. Newport have been and were at the time of the judgment of declaration of taking entered in this action the owners in fee simple as joint tenants of an undivided 24/70ths interest in and to the real property hereinabove described.

#### V.

That these answering defendants and Paul Merrill are entitled to the full compensation in the proportions hereinabove set forth for the parcels of real property hereinabove described, by reason of the taking thereof by the plaintiff in this action.

Wherefore, these defendants pray that this Honorable Court do decree and determine:

1. That these answering defendants, together

with Paul Merrill, were at the time of the judgment of declaration of taking the owners in fee simple in the proportions set forth in this answer of the real property hereinabove described.

2. That these answering defendants and Paul Merrill are entitled to compensation for the taking of said real property by the plaintiff in the amount of \$2600.00, the value of said real property.

3. That this court make its decree directing the clerk of said court to pay to these answering defendants and Paul Merrill the proportionate share each is entitled to as compensation from the said sum of \$2600.00.

4. And for such other and further relief as may be meet and proper in the premises.

ROYAL E. HANDLOS,

Attorney for said Answering  
Defendants. [75]

State of California,

City and County of San Francisco.—ss.

Royal E. Handlos, being first duly sworn, deposes and says:

That he is the attorney for the defendants Eva M. Wells, Olga K. Newport, Ernest H. Kreyenhagen, Jennie May Merrill Miller, sued herein as Jennie M. Merrill and as Jennie L. Merrill, Alma H. Silva, Lillian Arney, sued herein as Lillian Heriford, and Lowell Heriford, sued herein as Lowell Herriford, and Walter Merrill; that all the said defendants are absent from the City and County of San Francisco where affiant has his office, and for



that reason affiant verifies the said answer; that affiant has read the said answer and knows the contents thereof, and the same is true of his own knowledge except as to the matters therein alleged on information and belief, and as to those matters that he believes it to be true.

**ROYAL E. HANDLOS.**

Subscribed and sworn to before me this 6th day of January, 1944.

[Seal]                      **JANE O'CONNOR,**  
Notary Public in and for the City and County of  
San Francisco, State of California.

[Endorsed]: Filed Jan. 6, 1944. [76]

---

[Title of District Court and Cause.]

**NOTICE OF MOTION FOR PAYMENT OF  
MONEY**

To the plaintiff above named and to M. Mitchell  
Bourquin, Esq., its attorney:

You and each of you will please take notice and you are hereby notified; that on Monday, the 29th day of November, 1943 at the hour of 10:00 o'clock A. M. of said day, in the Courtroom of the above entitled court in the Post Office Building, Seventh and Mission Streets, San Francisco, California, the defendant Frank M. Weber, will move the above entitled court the Honorable Michael J. Roche judge thereof, for its order directing the clerk of the above entitled court to pay to the defendant Frank

M. Weber on account of compensation the sum of \$1,950.00. Said sum being the amount on deposit in the above entitled court as and for compensation for the parcels of land described in the complaint on file herein as Lot 9 in Block 4611 and Lot 11 in Block 4616. [77]

Said motion will be made upon the ground that said defendant Frank M. Weber is the only person entitled to the entire compensation for said parcels of land.

Said motion will be based upon all of the records and files in the above entitled action, the Affidavit of Frank M. Weber served herewith and the Points and Authorities served herewith.

Dated: November 22, 1943.

M. WEBER,

Attorney for defendant Frank  
M. Weber. [78]

---

[Title of District Court and Cause.]

AFFIDAVIT OF FRANK M. WEBER IN SUP-  
PORT OF MOTION FOR PAYMENT OF  
MONEY

State of California,

City and County of San Francisco.—ss.

Frank M. Weber, being first duly sworn deposes and says:

That he is one of the defendants in the above entitled action. That he is the defendant claiming

compensation for the lots or parcels of land described in the complaint on file herein as Lot 9 in Block 4611 and Lot 11 in Block 4616.

That general taxes for municipal and state purposes for the fiscal year 1936-1937 which were levied and assessed on the parcels of land hereinabove referred to, having become delinquent, said property was sold to the State of California on the 25th day of June, 1937 pursuant to Section 3771 of the [79] Political Code of the State of California. That thereafter, general taxes for the fiscal years 1937-1938, 1938-1939, 1939-1940 and 1941-1942 which were levied and assessed on said property having become delinquent, said property was sold at public auction by the State of California to this defendant on the 1st day of July, 1942 pursuant to the provisions of Section 3771a of the Political Code of the State of California. That on the 14th day of July, 1942, in accordance with the provisions of the Political Code and the Revenue and Taxation Code of the State of California, and after a sale of said property at public auction on the 1st day of July, 1942 as aforesaid, Edward F. Bryant as tax collector of the City and County of San Francisco, State of California, made, executed and delivered to this defendant two separate deeds to the property herein referred to. That said deeds to this defendant by said Edward F. Bryant as tax collector of the City and County of San Francisco, State of California as aforesaid, were thereafter and on the 21st day of July, 1942 duly and regularly recorded in the office

of the County Recorder of the City and County of San Francisco, State of California. That one of such deeds was recorded in Volume 3894 Official Records at page 384 thereof and the other of such deeds was recorded in Volume 3894 Official Records at page 385 thereof.

That none of the former owners of said real property prior to the sale thereof to affiant at tax sale as aforesaid have appeared in this cause claiming compensation for the property herein referred to.

That affiant is informed and believes that he is entitled to the full compensation for the real property herein referred to.

Wherefore, affiant prays the order of this court directing payment to affiant on account of compensation for [80] *for* said property in the sum of \$1,950.00, said sum being the amount on deposit in this court as compensation for said property.

FRANK M. WEBER.

Subscribed and sworn to before me this 22nd day of November, 1943.

[Seal] CATHERINE E. KEITH,  
Notary Public in and for the City and County of  
San Francisco, State of California. [81]

[Title of District Court and Cause.]

#### POINTS AND AUTHORITIES

Title 40, Section 258a of United States Code Annotated, provides in part as follows:

“Upon the application of the parties in interest,

the court may order the money deposited in court, or any part thereof, be paid forthwith for or on account of the just compensation to be awarded in said proceeding.”

See also the case of *U. S. vs. 3.08 acres of land in North River, Borough of Manhattan, City and State of New York*, 46 Fed. Supp. 64 where it is held that in the government's condemnation proceeding, where the government acquires title to property immediately by filing its petition and depositing in court money estimated to be just compensation for land taken, the District Court may order that the money deposited, or any part thereof, be paid forthwith to the parties in interest for or on account of just compensation to be awarded in the proceeding. See also to the same effect: *U. S. vs. 17,800 acres of land*, 47 Fed. Supp. 267. [82]

---

**This Defendant is Entitled to Entire Compensation  
for the Real Property**

**U. S. vs. Certain Lands in Town of Hempstead,  
129 Fed. (2d) 918  
Decided July 21, 1942**

**Circuit Court of Appeals**

This case holds that where the Federal Government acquired title in a condemnation proceeding after the land had been sold to the county for taxes but before the expiration of the period of redemption, and the original owners did not redeem, and

the tax deed was issued to the county, the county was entitled to the entire compensation award.

Respectfully submitted,

M. WEBER,

Attorney for defendant Frank  
M. Weber.

Received a copy of the foregoing "Notice of Motion for Payment of Money", "Affidavit of Frank M. Weber in Support of Motion for Payment of Money" and "Points and Authorities" this 22nd day of November, 1943.

M. MITCHELL BOURQUIN,

Attorney for plaintiff.

[Endorsed]: Filed Nov. 22, 1943. [83]

---

[Title of District Court and Cause.]

ORDER DENYING MOTION FOR PAYMENT  
OF MONEY

The motion of Frank M. Weber, one of the defendants in the above entitled cause, for payment to him of the amount on deposit in this court as compensation for the property herein involved having been heretofore heard and submitted and being now fully considered, it is by the Court Ordered that said motion for payment of money be and the same is hereby Denied.

Dated: February 16th, 1944.

MICHAEL J. ROCHE,

United States District Judge.

[Endorsed]: Filed Feb. 17, 1944. [84]



[Title of District Court and Cause.]

Objections and Amendments on Behalf of Defendant Frank M. Weber to Proposed Findings of Fact and Conclusions of Law Submitted on Behalf of Defendants Eva M. Wells, Olga K. Newport, Ernest H. Kreyenhagen, Jennie May Merrill Miller, Alma H. Silva, Lillian Arney, Lowell Heriford and Walter Merrill.

The defendant Frank M. Weber hereby objects to findings (a), (b), (c) and (d) as the same are set forth in the proposed Findings of Fact and Conclusions of Law submitted herein on behalf of the defendants Eva M. Wells, Olga K. Newport, Ernest H. Kreyenhagen, Jennie May Merrill Miller, Alma H. Silva, Lillian Arney, Lowell Heriford and Walter Merrill, upon the following ground:

1. That said findings of fact are not supported by and are contrary to the evidence offered and received at the trial of this cause. [61]

The defendant Frank M. Weber hereby submits and proposes the following amendments to and additions to said proposed Findings of Fact and Conclusions of Law submitted on behalf of the defendants Eva M. Wells, Olga K. Newport, Ernest H. Kreyenhagen, Jennie May Merrill Miller, Alma H. Silva, Lillian Arney, Lowell Heriford and Walter Merrill:

1. That the defendants Eva M. Wells, Olga K. Newport, Ernest H. Kreyenhagen, Jennie May Merrill Miller, Alma H. Silva, Lillian Arney,

Lowell Heriford and Walter Merrill failed and neglected to pay the general taxes for municipal and state purposes for the fiscal year 1936-1937 which were levied and assessed against Lot 9 in Block 4611 and Lot 11 in Block 4616, as described in Schedule A of the judgment of declaration of taking filed April 22, 1942 and said taxes thereupon became delinquent and said property was sold to the State of California on the 25th day of June 1937 pursuant to Section 3771 of the Political Code of the State of California.

2. That general taxes for the fiscal years 1937-1938, 1938-1939, 1939-1940, 1940-1941 and 1941-1942 which were levied and assessed on said property likewise became delinquent and thereupon said property was sold at public auction to the defendant Frank M. Weber on the 1st day of July, 1942, pursuant to the provisions of Section 3771a of the Political Code of the State of California.

3. That at said sale, the defendant Frank M. Weber paid for Lot 9 in Block 4611 the sum of \$151.49 and for Lot 11 in Block 4616 the sum of \$167.76 or a total of \$319.25 for both parcels of land. That of said sum of \$319.25, the sum of \$242.46 was for delinquent taxes levied and assessed against said parcels of land. [62]

4. That on July 14, 1942 in accordance with the provisions of the Political Code and the Revenue and Taxation Code of the State of California, Edward F. Bryant as Tax Collector of the City and County of San Francisco, State of California

made, executed and delivered to the defendant Frank M. Weber two separate deeds to the property herein described.

5. That on July 21, 1942 said deeds were duly and regularly recorded in the Office of the County Recorder of the City and County of San Francisco, State of California.

Dated: June 23, 1945.

M. WEBER

Attorney for defendant  
Frank M. Weber

[Endorsed]: Filed June 25, 1945. [63]

---

District Court of the United States, Northern  
District of California, Southern Division.

At a Stated Term of the District Court of the United States for the Northern District of California, Southern Division, held at the Court Room thereof, in the City and County of San Francisco, on Monday, the 9th day of July, in the year of our Lord one thousand nine hundred and forty-five.

Present: the Honorable Michael J. Roche,  
District Judge.

[Title of Cause.]

ORDER OVERRULING DEFENDANTS OBJECTIONS AND AMENDMENTS TO FINDINGS, ETC.

This case came on regularly this day for settlement of findings. After hearing Royal E. Handlos,

Esq. and M. Weber, Esq., for certain defendants, it is Ordered that defendant Weber's objections be overruled. [64]

---

[Title of District Court and Cause.]

## DECISION

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This cause came on regularly for trial on February 28th, 1945, before the above entitled court, sitting without a jury, upon the answer of the defendants Eva M. Wells, Olga K. Newport, Ernest H. Kreyenhagen, Jennie May Merrill Miller, sued herein as Jennie M. Merrill, and as Jennie L. Merrill, Alma H. Silva, Lillian Arney, sued herein as Lillian Herriford, and Lowell Heriford, sued herein as Lowell Herriford, and Walter Merrill, and the answer of the defendant Frank M. Weber; the defendants Eva M. Wells, Olga K. Newport, Ernest H. Kreyenhagen, Jennie May Merrill Miller, sued herein as Jennie M. Merrill and as Jennie L. Merrill, Alma H. Silva, Lillian Arney, sued herein as Lillian Herriford, and Lowell Heriford, sued herein as Lowell Herriford, and Walter Merrill [65] appearing by Royal E. Handlos, Esq., their attorney, and the defendant Frank M. Weber appearing by M. Weber, Esq., his attorney, and the action proceeding to trial only as to the real property referred to in the amendment to judg-

ment of declaration of taking filed December 12th, 1942, as Parcel 7 and Parcel 16, and as to the rights of the respective parties to compensation for the taking of said property by the plaintiff in said action, and evidence both oral and documentary having been introduced on the part of the various defendants appearing, and the cause having been submitted to the court for decision, the court now makes its findings of fact and conclusions of law as follows:

### FINDINGS OF FACT

(a) That all of the allegations of paragraphs I, II, III, IV and V of the answer of the defendants Eva M. Wells, Olga K. Newport, Ernest H. Kreyenhagen, Jennie May Merrill Miller, sued herein as Jennie M. Merrill and as Jennie L. Merrill, Alma H. Silva, Lillian Arney, sued herein as Lillian Herriford, and Lowell Heriford, sued herein as Lowell Herriford, and Walter Merrill, are true.

(b) That the allegations of paragraphs I and II of the answer of Frank M. Weber are untrue.

(c) That the compensation for the taking of Lot No. 9 in Block 4611, and of Lot No. 11 in Block 4616, as described in Schedule A of judgment of declaration of taking filed April 22nd, 1942, and in Schedule A attached to the amendment to declaration of taking filed December 12th, 1942, as Parcels 7 and 16, places the value of the first parcel above described shown as Parcel 7 in



said Schedule A of amendment to declaration of taking at \$1250, and the second parcel above described shown as Parcel 16 in said Schedule A of amendment to declaration of taking at \$1350.

(b) That at the time of the judgment of declaration of taking filed April 22nd, 1942, and the amendment to [66] declaration of taking filed December 12th, 1942, said property was subject to taxes due, payable and delinquent in favor of the City and County of San Francisco, State of California, in the sum of \$242.46.

### CONCLUSIONS OF LAW

As conclusions of law from the foregoing findings of fact it follows:

#### I.

That the defendants Eva M. Wells, Olga K. Newport, Ernest H. Kreyenhagen, Jennie May Merrill Miller, sued herein as Jennie M. Merrill and as Jennie L. Merrill, Alma H. Silva, Lillian Arney, sued herein as Lilian Herriford, and Lowell Heriford, sued herein as Lowell Herriford, Walter Merrill and Paul Merrill are entitled to and are hereby awarded the said sum of \$2600.00, less the sum of \$242.46 due the City and County of San Francisco, State of California, for taxes due, payable and delinquent against the said property at the time of the said declaration of taking, in the following proportions:

That Eva M. Wells is entitled to 24/70ths of said sum.



That Olga K. Newport and Ernest H. Kreyenhagen are entitled to 24/70ths of said sum.

That Jennie May Merrill Miller, sued herein as Jennie M. Merrill and as Jennie L. Merrill, is entitled to 4/70ths of said sum.

That Alma H. Silva is entitled to 1-1/3/70ths of said sum.

That Lillian Arney, sued herein as Lillian Heriford is entitled to 1-1/3/70ths of said sum.

That Lowell Heriford, sued herein as Lowell Herriford, is entitled to 1-1/3/70ths of said sum.

That Walter Merrill is entitled to 4-1/3/70ths of said sum.

That Paul Merrill is entitled to 9-2/3/70ths of said sum. [67]

## II.

That defendant Frank W. Weber is not entitled to any sum of money as compensation by reason of the taking of said property by the plaintiff.

Let Judgment be entered accordingly.

Dated: July 9th, 1945.

MICHAEL J. ROCHE

Judge of said District Court.

[Endorsed]: Lodged July 3, 1945. Filed July 9, 1945. [68]

In the District Court of the United States in and  
for the Northern Division of California, South-  
ern Division.

No. 22147-R

UNITED STATES OF AMERICA,

Plaintiff,

vs.

230.5 acres of land in the City and County of San  
Francisco, State of California, CARRIE F.  
REDNALL, et al.,

Defendants.

### JUDGMENT

This cause came on regularly for trial on February 28th, 1945, before the above entitled court, sitting without a jury, upon the answer of the defendants Eva M. Wells, Olga K. Newport, Ernest H. Kreyenhagen, Jennie May Merrill Miller, sued herein as Jennie M. Merrill, and as Jennie L. Merrill, Alma H. Silva, Lillian Arney, sued herein as Lillian Herriford, and Lowell Heriford, sued herein as Lowell Herriford, and Walter Merrill, and the answer of the defendant Frank M. Weber; the defendants Eva M. Wells, Olga K. Newport, Ernest H. Kreyenhagen, Jennie May Merrill Miller, sued herein as Jennie M. Merrill and as Jennie L. Merrill, Alma H. Silva, Lillian Arney, sued herein as Lillian Herriford, and Lowell Heriford, sued herein as Lowell Herriford, and Walter Merrill [69] appearing by Royal E. Handlos, Esq., their attorney, and the defendant Frank M. Weber appearing

by M. Weber, Esq., his attorney, and the action proceeding to trial only as to the real property referred to in the amendment to judgment of declaration of taking filed December 12th, 1942; as Parcel 7 and Parcel 16, and as to the rights of the respective parties to compensation for the taking of said property by the plaintiff in said action, and evidence both oral and documentary having been introduced on the part of the various defendants appearing, and the cause having been submitted to the court for decision, and findings of fact and conclusions of law having been filed herein,

It Is Ordered that the defendants Eva M. Wells, Olga K. Newport, Ernest H. Kreyenhagen, Jennie May Merrill Miller, sued herein as Jennie M. Merrill and as Jennie L. Merrill, Alma H. Silva, Lillian Arney, sued herein as Lillian Herriford, and Lowell Heriford, sued herein as Lowell Herriford, Walter Merrill and Paul Merrill are entitled to and are hereby awarded the said sum of \$2600.00, less the sum of \$242.46 due the City and County of San Francisco, State of California, for taxes due, payable and delinquent against the said property at the time of the said declaration of taking, in the following proportions:

That Eva M. Wells is entitled to 24/70ths of said sum.

That Olga K. Newport and Ernest H. Kreyenhagen are entitled to 24/70ths of said sum.

That Jennie May Merrill Miller, sued herein as Jennie M. Merrill and as Jennie L. Merrill, is entitled to 4/70ths of said sum.

That Alma H. Silva is entitled to 1-1/3/70ths of said sum.

That Lillian Arney, sued herein as Lillian Herri-ford is entitled to 1-1/3/70ths of said sum.

That Lowell Heriford, sued herein as Lowell Herriford, is entitled to 1-1/3/70ths of said sum.

That Walter Merrill is entitled to 4-1/3/70ths of said sum.

That Paul Merrill is entitled to 9-2/3/70ths of said sum. [70]

It Is Further Ordered that the defendant Frank M. Weber has no right, title or interest in or to the said funds or any part thereof, and is not entitled to any sum of money as compensation by reason of the taking of said property by the plaintiff.

Dated: July 10th, 1945.

MICHAEL J. ROCHE

Judge of said District Court

[Endorsed]: Filed July 10, 1945. [71]

---

[Title of District Court and Cause.]

### NOTICE OF APPEAL.

Notice is hereby given that the defendant Frank M. Weber hereby appeals to the United States Circuit Court of Appeals for the Ninth Circuit from the judgment of the above entitled court awarding the sum of \$2,600.00 less the sum of

\$242.46 to the defendants Eva M. Wells, Olga K. Newport, Ernest H. Kreyenhagen, Jennie May Merrill Miller, sued herein as Jennie M. Merrill and as Jennie L. Merrill, Alma H. Silva, Lillian Arney, sued herein as Lillian Herriford, and Lowell Heriford, sued herein as Lowell Herriford, Walter Merrill and Paul Merrill, as compensation for Lot 9 in Block 4611 and Lot 11 in Block 4616 as described in the declaration of taking on file herein; and against said defendant Frank M. Weber declaring that said defendant Frank M. Weber has no right, title or interest in or to said funds or any part thereof and that he is not entitled to any sum of money as compensation by reason of the taking of [72] said property by plaintiff. Said judgment having been made and entered herein on the 10th day of July, 1945.

Dated: July 11, 1945.

M. WEBER

Attorney for defendant Frank  
M. Weber.

[Endorsed]: Filed July 11, 1945. [73]

---

[Title of District Court and Cause.]

### STIPULATION

It is hereby stipulated by and between counsel for the respective parties hereto that the amount of the supersedeas bond in this cause shall be the

sum of \$2600.00. Said bond shall be a surety company bond.

Dated: July 11th, 1945.

ROYAL E. HANDLOS

Attorney for defendants Eva  
M. Wells, et. al.

M. WEBER

Attorney for defendant Frank  
M. Weber

[Endorsed]: Filed July 11, 1945. [74]

---

[Title of District Court and Cause.]

### UNDERTAKING ON APPEAL

Whereas, Frank M. Weber, one of the Defendants in the above-entitled action has appealed to the United States Circuit Court of Appeals for the Ninth Circuit, from a judgment made and entered against him in said action, in the District Court of the United States for the Northern District of California, Southern Division, in favor of the Plaintiff in said action, on the 10th day of July, 1945, for Two Thousand Six Hundred and No/100 (\$2,600.00) Dollars; and

Whereas, the appellant is desirous of staying the execution of the said judgment so appealed from,

Now, Therefore, in consideration of the premises, and of such appeal, the undersigned United Pacific Insurance Company, a corporation organized and existing under and by virtue of the laws of the



State of Washington, and authorized to transact a general surety business in the State of California, does hereby undertake and promise, on the part of the appellant, and does acknowledge itself justly bound in the sum of Two Thousand Six Hundred and No/100 (\$2,600.00) Dollars, that if the said judgment appealed from, or any part thereof, be affirmed, or the appeal be dismissed, the appellant will pay the amount directed to be paid by the judgment or order, or the part of such amount as to which the same shall be affirmed, if affirmed only in part, and all damages and costs which may be awarded against the appellant upon the appeal; and that if the appellant does not make such payment within thirty (30) days after the filing of the remittitur from the United States Circuit Court of Appeals for the Ninth Circuit in the Court from which the appeal is taken, judgment may be entered in said action on motion of respondent (and without notice to the undersigned surety) in its favor against the said surety, for such amount, together with interest that may be due thereon, and the damages and costs which may be awarded against the appellant upon the appeal.

And further it is expressly understood that the United Pacific Insurance Company, as Surety hereunder, in case of a breach of any condition of this bond, agrees that the Court in the above entitled matter, may upon notice to it of not less than ten days, proceed summarily in the action, suit, case, or proceeding, in which the same is given to ascertain the amount which said surety is bound to pay

on account of such breach, and render judgment therefor against it, and award execution therefor. Signed and sealed this 12th day of July, 1945.

UNITED PACIFIC INSUR-  
ANCE COMPANY

By M. HENDERSON

Attorney-in-fact (M. Hender-  
son)

(Seal of United Pacific Insurance Company)

Approved

MICHAEL J. ROCHE

U. S. District Judge.

July 12, 1945.

The premium charge for this bond is \$52.00 per annum.

(Justification of Surety)

[Endorsed]: Filed July 12, 1945. [75]

---

[Title of District Court and Cause.]

COST BOND ON APPEAL

Whereas, in an action in the United States District Court for the Northern District of California, Southern Division, judgment was on July 10, 1945, given and entered in said Court, in favor of Plaintiff and against Defendants; and

Whereas, Frank M. Weber, one of the Defendants, is dissatisfied with said Judgment and is desirous of appealing therefrom to the United

States Circuit Court of Appeals for the Ninth Circuit.

Now, Therefore, in consideration of the premises, and of such appeal, the United Pacific Insurance Company, a corporation organized and existing under and by virtue of the laws of the State of Washington and authorized to transact a general surety business in the State of California, as Surety, does hereby undertake and promise on the part of the appellant, that said appellant will pay all costs which may be awarded against him on said appeal or on a dismissal thereof, not exceeding Two Hundred Fifty and No/100 (\$250.00) Dollars, to which amount it acknowledges itself bound.

And further it is expressly understood that the United Pacific Insurance Company, as Surety hereunder, in case of a breach of any condition of this bond, agrees that the Court in the above entitled matter, may upon notice to it of not less than ten days, proceed summarily in the action, suit, case or proceeding, in which the same is given to ascertain the amount which said surety is bound to pay on account of such breach, and render judgment therefor against it, and award execution therefor.

In Witness Whereof, the said United Pacific Insurance Company has caused this obligation to be signed by its duly authorized Attorney-in-fact at

San Francisco, California, and its corporate seal to be hereto affixed, this 13th day of July, 1945.

UNITED PACIFIC INSUR-  
ANCE COMPANY

By M. HENDERSON

Attorney-in-fact (M. Hender-  
son)

(Seal of United Pacific Insurance Company)

The premium charge for this bond is \$5.00 per annum.

(Justification of Surety)

[Endorsed]: Filed July 13, 1945. [76]

---

[Title of District Court and Cause.]

STATEMENT OF POINTS UPON WHICH  
APPELLANT INTENDS TO RELY ON  
APPEAL.

The appellant Frank M. Weber, makes the following statement of points on which appellant intends to rely upon the appeal herein:—

1. The District Court erred in awarding to the defendants Eva M. Wells, Olga K. Newport, Ernest H. Kreyenhagen, Jennie May Merrill Miller, sued herein as Jennie M. Merrill, and as Jennie L. Merrill, Alma H. Silva, Lillian Arney, sued herein as Lillian Herriford, and Lowell Heriford, sued herein as Lowell Herriford, and Walter Merrill and Paul Merrill the sum of \$2,600.00 less the sum of \$242.46

due the City and County of San Francisco, State of California, for taxes due, payable and delinquent against Lot 9 in Block 4611 and Lot 11 in Block 4616 as described in the declaration of taking on file herein. [77]

2. The District Court erred in holding that the defendant Frank M. Weber had no right, title or interest in or to said sum of \$2,600.00 or any part thereof, and is not entitled to any sum of money as compensation by reason of the taking of said property by plaintiff.

3. The District Court erred in holding that the defendant Paul Merrill was entitled to 9-2/3/70ths of said sum of \$2,600.00 or any part or portion thereof.

4. The District Court erred in holding the sum of \$242.46 was due the City and County of San Francisco, State of California.

5. The District Court erred in holding null and void the tax sale and tax deeds to appellant covering said parcels of land designated as Lot 9 in Block 4611 and Lot 11 in Block 4616 in the declaration of taking on file herein.

6. The District Court erred in holding that this condemnation action extended the statutory time for redemption by the defendants Eva M. Wells, Olga K. Newport, Ernest H. Kreyenhagen, Jennie May Merrill Miller, sued herein as Jennie M. Miller, and as Jennie L. Merrill, Alma H. Silva, Lillian Arney, sued herein as Lillian Herriford,

and Lowell Heriford, sued herein as Lowell Heriford, Walter Merrill and Paul Merrill, beyond the five year period as provided by the law of the State of California.

M. WEBER

Attorney for Appellant Frank  
M. Weber

[Endorsed]: Filed July 23, 1945. [78]

---

[Title of District Court and Cause.]

ORDER EXTENDING TIME TO DOCKET.

Good cause appearing therefor, it is hereby Ordered that the Appellant herein may have to and including September 29, 1945 to file the Record on Appeal in the United States Circuit Court of Appeals in and for the Ninth Circuit.

A. F. ST. SURE

United States District Judge.

[Endorsed]: Filed Aug. 20, 1945. [79]

---

[Title of District Court and Cause.]

DESIGNATION OF MATTERS TO BE INCLUDED IN RECORD ON APPEAL.

To the Clerk of the above entitled court:—

The defendant Frank M. Weber, by his undersigned attorney, hereby designates for inclusion in the transcript of record on appeal the following pleadings, records, affidavits, proceedings and evi-



dence with reference to Lot 9 in Block 4616 as described in the declaration of taking on file herein:—

1. Complaint in condemnation.
2. Order Granting Immediate Possession and Use of Property Sought to Be Condemned.
3. Declaration of Taking.
4. Judgment filed herein April 22, 1942.
5. Amendment to Declaration of Taking.
6. Answer of defendant Frank M. Weber filed herein August 6, 1942.
7. Answer of defendants Eva M. Wells, et al., filed herein January 6, 1944.
8. Notice of Motion for Payment on Money, together with Affidavit of Frank M. Weber in support of Motion for Payment of Money and Points and Authorities, filed herein November 22, 1943.
9. Order Denying Motion for Payment of Money filed herein February 17, 1944.
10. All of the evidence offered and received at the trial of this cause had on February 28, 1945 including exhibits.
11. Decision, Findings of Fact and Conclusions of Law filed herein July 9, 1945.
12. Objections and Amendments on Behalf of Defendant Frank M. Weber to Findings of Fact and Conclusions of Law, filed herein June 25, 1945.

13. Order Overruling defendant Frank M. Weber's Objections and Amendments to Findings of Fact and Conclusions of Law.

14. Judgment filed herein July 10, 1945.

15. Notice of Appeal filed herein July 11, 1945.

16. Stipulation Covering amount of Supersedeas Bond filed herein July 11, 1945.

17. Supersedeas Bond filed herein July 12, 1945.

18. Cost Bond on Appeal filed herein July 13, 1945.

19. Statement of Points Upon Which Appellant Intends to Rely on Appeal, filed herein July 23, 1945.

20. This designation of Matter to Be Included in Record on Appeal.

M. WEBER

Attorney for Appellant Frank  
M. Weber.

[Endorsed]: Filed Aug. 30, 1945. [81]

---

[Title of District Court and Cause.]

ORDER STAYING PROCEEDINGS PENDING  
APPEAL

The motion of the defendant Frank M. Weber for an order of this court staying proceedings herein pending his appeal to the United States Circuit

Court of Appeals, for the Ninth Circuit from the judgment of this court made and entered herein on the 10th day of July, 1945 awarding the sum of \$2,600.00 less the sum of \$242.46 to the defendants Eva M. Wells, Olga K. Newport, Ernest H. Kreyenhagen, Jennie May Merrill Miller, sued herein as Jennie M. Miller and as Jennie L. Miller, Alma H. Silva, Lillian Arney, sued herein as Lillian Herri-ford, and Lowell Heriford sued herein as Lowell Herriford, Walter Merrill and Paul Merrill, as compensation for Lot 9 in Block 4611 and Lot 11 in Block 4616 as described in the declaration of taking on file herein, having coming on regularly for hearing the 24th day of September, 1945.

And the Court being fully advised, [82]

Now Therefore, it is hereby ordered that said motion of said defendant Frank M. Weber be and the same is hereby granted and,

It Is Hereby Further Ordered that the operation of said judgment hereinabove described and all other and further proceedings, to the extent that the same affects said Lot 9 in Block 4611 and Lot 11 in Block 4616 above described or the money on deposit in this court as compensation for said parcels of land, be and the same are hereby stayed pending the decision of the said United States Circuit Court of Appeals, for the Ninth Circuit, and until such decision becomes final.

Done in open court this 27th day of September, 1945.

MICHAEL J. ROCHE

Judge of the District Court.

Received a copy of the above this 27th day of September, 1945.

ROYAL E. HANDLOS

Attorney for defendants Eva  
M. Wells, et. al.

[Endorsed]: Filed Sept. 27, 1945. [83]

---

[Title of District Court and Cause.]

ORDER EXTENDING TIME TO DOCKET.

Good cause appearing therefor,

It is hereby Ordered that the Appellant herein may have to and including the 9th day of October, 1945, to file the Record on Appeal in the United States Circuit Court of Appeals in and for the Ninth Circuit.

Dated: September 29, 1945.

MICHAEL J. ROCHE

United States District Judge.

[Endorsed]: Filed Sept. 29, 1945. [84]

District Court of the United States  
Northern District of California

CERTIFICATE OF CLERK TO TRANSCRIPT  
OF RECORD ON APPEAL

I, C. W. Calbreath, Clerk of the District Court of the United States, for the Northern District of California, do hereby certify that the foregoing 84 pages, numbered from 1 to 84, inclusive, together with One (1) Volume of Reporter's Transcript for February 28, 1945, contain a full, true, and correct transcript of the records and proceedings in the case of United States of America, Plaintiff, vs. 230.5 acres of land in the City and County of San Francisco, et al., Defendants No. 22147 R, as the same now remain on file and of record in my office.

I further certify that the cost of preparing and certifying the foregoing transcript of record on appeal is the sum of \$10.25 and that the said amount has been paid to me by the Attorney for the appellant herein.

In Witness Whereof, I have hereunto set my hand and affixed the seal of said District Court at San Francisco, California, this 8th day of October, A. D. 1945.

[Seal]

C. W. CALBREATH,  
Clerk

By E. VAN BUREN  
Deputy Clerk [85]

In the Southern Division of the United States  
District Court, In and For the Northern Dis-  
trict of California

Before: Hon. Michael J. Roche, Judge.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

230.5 ACRES OF LAND IN THE CITY AND  
COUNTY OF SAN FRANCISCO, STATE  
OF CALIFORNIA, and CARRIE R. RED-  
NALL, et al.,

Defendants.

Wednesday, February 28, 1945

Counsel Appearing:

For Frank M. Weber,

M. Weber, Esq.

For Eva M. Wells, Olga K. Newport, Ernest H.  
Kreyenhagen, Jennie May Merrill Miller, Alma  
H. Silva, Lillian Arney, Lowell Heriford, and  
Walter Merrill,

Royal E. Handlos, Esq.

Mr. Handlos: We have agreed to stipulate to certain facts subject to objections on both sides. In other words, Mr. Weber wants to object to the offer of my evidence, but he is stipulating to what the facts are; that is, that the people whom I represent were the owners at the time of the filing of the suit and declaration of taking. He will further stipulate that the judgment and declaration of taking was



recorded on April 29, 1942, in the office of the Recorder of the City and County of San Francisco. I think that is the evidence so far as our side of the case is concerned.

Mr. Weber: That may be so stipulated. I believe it is also clear in the record that Mr. Handlos represents a value of  $61\frac{1}{3}/70$ ths interest.

Mr. Handlos: I would like to specify the various interests of the people I represent. I will also put in the record the deed of the other owner at that time whom I do not represent. We have never been able to locate the other one. In other words, I do not represent Paul Merrill. The other people I represent and the interest are as follows: Eva M. Wells,  $24/70$ ths, Olga K. Newport and Ernest H. Kreyenhagen together own  $24/70$ ths interest. Jennie May Merrill Miller owns  $4/70$ ths interest, Alma H. Silva owns  $1\frac{1}{3}/70$ ths, Lillian Arney owns  $1\frac{1}{3}/70$ ths, Lowell Heriford owns  $1\frac{1}{3}/70$ ths, and Walter Merrill  $4\frac{1}{3}/70$ ths.

Mr. Weber: That may be so stipulated, subject to my objection that it is immaterial, irrelevant and incompetent.

Mr. Handlos: Mr. Weber wants to make an objection as to my offer as to the competency of it, and I want to make the same objection to his offer.

Mr. Weber: It is objected to as being immaterial, irrelevant and incompetent.

Mr. Weber: Will it be stipulated, Mr. Handlos, that Lot 9 in Block 4611 was sold to the defendant, Frank M. Weber, on the 1st day of July, 1942?

Mr. Handlos: As evidenced by this deed?

Mr. Weber: No, that is not evidenced by the

deed. That is the date of the sale. The deed is dated the 14th of July, 1942; and that that parcel of land was sold to the defendant Frank M. Weber for the sum of \$55, which was the amount that he bid at that sale; that thereafter and on the 14th of July, 1942, a deed was issued covering that property, and that thereafter, on the 21st of July, 1942, that deed was recorded in the office of the Recorder of the City and County of San Francisco in Volume 3894 of the Official Records, at page 384. And will it also be stipulated that the defendant Frank M. Weber purchased at a tax sale held in the City and County of San Francisco on the 1st day of July, 1942, the lot of land known as Lot 11, Block 4616, for the sum of \$56; that thereafter a tax deed was delivered to Frank M. Weber by the tax collector of the City and County of San Francisco covering said parcel of property. That said Frank M. Weber purchased said property for the sum of \$56, and thereupon the deed covering said property was recorded in the office of the Recorder of the City and County of San Francisco on the 21st of July, 1942, in Volume 3894, Official Records, page 385. I would like to offer those deeds in evidence subject to the objections that was made.

The Court: They may be admitted subject to a motion to strike and over the objection.

Mr. Weber: Will it also be stipulated that Lot 9 in Block 4611 was first sold to the State of California on the 25th of June, 1937, for delinquent taxes for 1936, both installments, for the sum of \$15.90, and will it also be stipulated that thereafter the defendant Frank M. Weber redeemed said prop-

erty on the 21st of July, 1942, and paid therefor the sum of \$96.49, as shown by these certificates? Also with respect to Lot 11 in Block 4616 said property was first sold to the State of California on the 25th of June, 1937, for delinquent taxes for the year 1936, both installments, for the sum of \$18.31, and that thereafter on the 21st of July, 1942, the defendant Frank M. Weber paid by way of redemption the sum of \$111.76?

Mr. Handlos: Yes.

Mr. Weber: I would like to offer those two certificates of redemption in evidence, subject to the same objection.

The Court: They may be admitted and marked.

Mr. Handlos: You will stipulate that your client paid more than the amount of taxes due on these two properties?

Mr. Weber: I can give you the exact amount. In other words, Lot 9, Block 4611 was sold to the State of California for the sum of \$15.90 on the 25th of June, 1937. The sum of \$15.90 was included in the sum of \$55, which he paid.

Mr. Handlos: He paid \$39.10 more than the taxes which were due against the property.

Mr. Weber: The difference between the two figures. Likewise as to Lot 11 he paid \$56 at the sale and it was sold to the State for the sum of \$18.31, and it is the difference between those two figures.

With that evidence we rest.

(Thereupon the case was submitted upon briefs to be filed 5 and 5.)

[Endorsed]: Filed Aug. 30, 1945.

## DEFENDANTS' EXHIBIT No. 1

This Indenture, made the 14th day of July, 1942, between Edward F. Bryant, Tax Collector of the City and County of San Francisco, State of California, first party, and Frank M. Weber, second party, witnesseth:

That whereas, the real property hereinafter described was duly assessed for taxation in the year 1936, to W. P., J. M. & J. L. Merrill; E. H. & M. M. Kreyenhagen; A. H. Silva; L. & L. Herriford; O. K. Newport & E. M. Wells, and was thereafter on the 25th day of June, 1937, by operation of law, duly sold to the State of California, by Edward F. Bryant, Tax Collector of said City and County of San Francisco, for non-payment of delinquent taxes which had been legally levied in said year 1936, and

Whereas, in conformity with law, the real property hereinafter described was thereafter on the 1st day of July, 1942, duly sold to Frank M. Weber, said second party, for the sum of Fifty-six Dollars, by Edward F. Bryant, Tax Collector of said City and County of San Francisco, for non-payment of delinquent taxes which were a lien on said real property, and

Whereas, all taxes levied and assessed against said property prior to the year 1942 have been paid and discharged, and that the property has been redeemed;

Now, therefore, the said first party in consideration of the premises, and in pursuance of the law in such case made and provided, does hereby grant to the said second party that certain real property

in the City and County of San Francisco, State of California, more particularly described as follows, to wit:

The lot of land numbered 11 in block numbered 4616 as delineated and designed in Assessor's Map Book filed on November 30th, 1936, in the office of the Recorder of the City and County of San Francisco, State of California.

The lot of land numbered 11 in block numbered 4616:

"That whereas the real property hereinafter described was duly assessed for taxation in the year 1936 to Walter Merrill, Paul Merrill, Ernest H. Kreyenhagen, Maria M. Kreyenhagen, Alma H. Silva, Lowell Herriford, Lillian Herriford, Olga K. Newport, Eva M. Wells, Jennie M. Merrill, Jennie L. Merrill, Tr. and was thereafter on the 25th day of June, 1937, by operation of law, duly sold to the State of California, by Edward F. Bryant, Tax Collector, . . . "

In Witness Whereof said first party has hereunto set his hand the day and years first above written.

EDWARD F. BRYANT

Tax Collector of the City and  
County of San Francisco.

State of California,  
City and County of San Francisco—ss.

On this 14th day of July, A. D. 1942, before me, H. A. van der Zee, County Clerk and ex-officio Clerk of the Superior Court of the City and County of



San Francisco, State of California, personally appeared the within named Edward F. Bryant, personally known to me to be the Tax Collector of said City and County of San Francisco, whose name is subscribed to the annexed instrument as a party thereto, and personally known to me to be the individual described in and who executed the foregoing instrument and subscribed his name thereto as Tax Collector, and he duly acknowledged to me that he executed the same freely and voluntarily and as such Tax Collector, for the uses and purposes therein mentioned.

In Witness Whereof, I have hereunto set my hand and affixed my official seal as County Clerk and ex-Officio Clerk of the Superior Court, at my office in the City and County of San Francisco, the day and year in this certificate first above written.

[Seal]

H. A. VAN DER ZEE

County Clerk and ex-Officio  
Clerk of the Superior Court

By ROBERT MUNSON

Chief Clerk.

Recorded at Request of Grantee at 10 Min. Past 1 P.M., July 21, 1942. 3894. Official Records, p 385. City and County of San Francisco, California. Thos. A. Toomey, Recorder.

[Endorsed]: Filed 2-28-45.



## DEFENDANTS' EXHIBIT No. 2

This Indenture, made the 14th day of July, 1942, between Edward F. Bryant, Tax Collector of the City and County of San Francisco, State of California, first party, and Frank M. Weber, second party, witnesseth:

That whereas, the real property hereinafter described was duly assessed for taxation in the year 1936 to W. P., J. M. & J. L. Merrill; E. H. and M. M. Kreyenhagen; A. H. Silva; L. & L. Herri-ford; O. K. Newport & E. M. Wells, and was there-after on the 25th day of June, 1937, by operation of law, duly sold to the State of California, by Edward F. Bryant, Tax Collector of said City and County of San Francisco, for non-payment of delinquent taxes which had been legally levied in said year 1936, and

Whereas, in conformity with law, the real prop-erty hereinafter described was thereafter on the 1st day of July, 1942, duly sold to Frank M. Weber, said second party, for the sum of Fifty-five Dollars, by Edward F. Bryant, Tax Collector of said City and County of San Francisco, for non-payment of delinquent taxes which were a lien on said real property, and

Whereas, all taxes levied and assessed against said property prior to the year 1942 have been paid and discharged, and that the property has been re-deemed;

Now, therefore, the said first party in considera-tion of the premises, and in pursuance of the law in such case made and provided, does hereby grant

to the said second party that certain real property in the City and County of San Francisco, State of California, more particularly described as follows, to wit:

The lot of land numbered 9 in block numbered 4611 as delineated and designated in Assessor's Map Book filed on November 30th, 1936, in the office of the Recorder of the City and County of San Francisco, State of California.

The lot of land numbered 11 in block numbered 4616:

“That whereas the real property hereinafter described was duly assessed for taxation in the year 1936 to Walter Merrill, Paul Merrill, Ernest H. Kreyenhagen, Maria M. Kreyenhagen, Alma H. Silva, Lowell Herriford, Lillian Herriford, Olga K. Newport, Eva M. Wells, Jennie M. Merrill, Jennie L. Merrill, Tr. and was thereafter on the 25th day of June, 1937, by operation of law, duly sold to the State of California, by Edward F. Bryant, Tax Collector, . . . ”

In Witness Whereof said first party has hereunto set his hand the day and years first above written.

EDWARD F. BRYANT

Tax Collector of the City and  
County of San Francisco.

State of California,  
City and County of San Francisco—ss.

On this 14th day of July, A. D. 1942, before me,  
H. A. van der Zee, County Clerk and ex-officio Clerk

of the Superior Court of the City and County of San Francisco, State of California, personally appeared the within named Edward F. Bryant, personally known to me to be the Tax Collector of said City and County of San Francisco, whose name is subscribed to the annexed instrument as a party thereto, and personally known to me to be the individual described in and who executed the foregoing instrument and subscribed his name thereto as Tax Collector, and he duly acknowledged to me that he executed the same freely and voluntarily and as such Tax Collector, for the uses and purposes therein mentioned.

In Witness Whereof, I have hereunto set my hand and affixed my official seal as County Clerk and ex-Officio Clerk of the Superior Court, at my office in the City and County of San Francisco, the day and year in this certificate first above written.

[Seal]

H. A. VAN DER ZEE

County Clerk and ex-Officio  
Clerk of the Superior Court

By ROBERT MUNSON  
Chief Clerk

Recorded at Request of Grantee at 9 Min. Past  
1 P. July 21, 1942. 3894. Official Record, p 384.  
City and County of San Francisco, California.  
Thos. A. Toomey, Recorder.

[Endorsed]: Filed 2-28-45.

## DEFENDANT'S EXHIBIT No. 3

City and County of San Francisco

## CERTIFICATE OF REDEMPTION

(For Real Estate Sold at Auction)

Of real estate sold to the state on the 25 day of June, 1937, for delinquent taxes of 1936, both installment and redeemed July 21, 1942, in accordance with Political Code, Section 3817. Assessed to Walter Merrill.

Vol. 28

Block 4616

Lot 11

Sale No. 2151

Assessed Value

At Year of Sale \$440

City and County of San  
Francisco,

Office of the Treasurer

Received of Redemptioner:

Frank M. Weber

4867 Mission

\$111.76

A check, draft or money order proffered in settlement of this obligation shall not constitute payment until duly honored and collected.

Witness My Hand

Date July 21, 1942

[Stamped] Received for Col-  
lection Check, Draft or Money  
Order, July 21, 1942. Duncan  
Matheson, Treasurer. By: W.  
E. Logan, Deputy.

Delinquent City and

County Taxes 1936....\$16.64

Penalties for

Delinquencies ..... 1.17

Costs ..... .50

Sold to the State for..... 18.31

Paid by the Redemptioner to  
Tax Collector July 1, 1942,  
under the provisions of Sec.  
3476, Rev. & Tax Code.

36½%	Penalty on Redemption .....	\$ 6.07
1937	Taxes .....	17.04
30½%	Penalty on Redemption.....	5.20
1938	Taxes .....	17.78
24½%	Penalty on Redemption.....	4.36
1939	Taxes .....	17.32
18½%	Penalty on Redemption.....	3.20
1940	Taxes .....	18.90
12½%	Penalty on Redemption.....	2.36
1941	Taxes .....	19.34
1%	Penalty on Redemption.....	.19

---

Total Amount Necessary to Redeem.....\$111.76

State of California, }  
 City and County of San Francisco } I, Harold J. Boyd, Con-  
 troller in and for said City and County, State aforesaid, do  
 hereby certify that the foregoing statement contains a full and  
 correct estimate of the amount necessary to redeem the within  
 described real estate, made in accordance with the provisions of  
 Section 3817, Political Code.

Witness my hand affixed at San Francisco.

HAROLD J. BOYD, Controller.

By E. RUTLEDGE.

Date July 21, 1942.

[Endorsed]: Filed 2-28-45.

## DEFENDANT'S EXHIBIT No. 4

City and County of San Francisco

### CERTIFICATE OF REDEMPTION

(For Real Estate Sold at Auction)

Of real estate sold to the state on the 25 day of June, 1937,  
 for delinquent taxes of 1936, both installment and redeemed  
 July 21, 1942, in accordance with Political Code, Section 3817.  
 Assessed to Walter Merrill, et al.

Vol. 28

Block 4611

Lot 9

Sale No. 2148

Assessed Value

At Year of Sale \$380

City and County of San  
 Francisco

Office of the Treasurer

Received of Redemptioner:

Frank M. Weber

4867 Mission

\$96.49

A check, draft or money order  
 proffered in settlement of this  
 obligation shall not constitute  
 payment until duly honored and  
 collected.

Witness my Hand

Date July 21, 1942

[Stamped] Received for col-  
 lection, check, draft or money  
 order, July 21, 1942. Duncan  
 Matheson, Treasurer. By W. E.  
 Logan, Deputy.

Delinquent City and

County Taxes 1936....\$14.38

Penalties for

Delinquencies ..... 1.02

Costs ..... .50

Sold to the State for..... 15.90

Paid by the Redemptioner to

Tax Collector July 1, 1942,

Under the Provisions of Sec.

3476, Rev. & Tax Code.

361½%	Penalty on Redemption.....	\$ 5.25
1937	Taxes .....	14.70
301½%	Penalty on Redemption.....	4.48
1938	Taxes .....	15.34
241½%	Penalty on Redemption.....	3.76
1939	Taxes .....	14.96
181½%	Penalty on Redemption.....	2.77
1940	Taxes .....	16.32
121½%	Penalty on Redemption.....	2.04
1941	Taxes .....	16.70
1%	Penalty on Redemption.....	.17
Total Amount Necessary to Redeem.....		\$ 96.49

State of California,  
City and County of San Francisco } I, Harold J. Boyd, Con-  
troller in and for said City and County, State aforesaid, do  
hereby certify that the foregoing statement contains a full and  
correct estimate of the amount necessary to redeem the within  
described real estate, made in accordance with the provisions of  
Section 3817, Political Code.

Witness my hand affixed at San Francisco.

HAROLD J. BOYD, Controller.  
By E. RUTLEDGE.

Date July 21, 1942.

[Endorsed]: Filed 2-28-45.



[Endorsed]: No. 11154. United States Circuit Court of Appeals for the Ninth Circuit. Frank M. Weber, Appellant, vs. Eva M. Wells, Olga K. Newport, Ernest H. Kreyenhagen, Jennie May Merrill Miller, Alma H. Silva, Lillian Arney, Lowell Heriford, Walter Merrill and Paul Merrill, Appellees. Transcript of Record. Upon Appeal from the District Court of the United States for the Northern District of California, Southern Division.

Filed October 9, 1945.

PAUL P. O'BRIEN

Clerk of the United States Circuit Court of Appeals  
for the Ninth Circuit.

---

In the United States Circuit Court of Appeals,  
for the Ninth Circuit

No. 11154

FRANK M. WEBER,

Appellant,

vs.

EVA M. WELLS, et al.,

Appellees.

APPELLANT'S STATEMENT OF POINTS  
AND DESIGNATION OF RECORD TO BE  
PRINTED

Appellant hereby adopts as his statement of points on appeal the statement of points appearing in the transcript of record on file herein.

The clerk of the above entitled court is hereby requested and instructed to print the record in its entirety as certified and that all exhibits transmitted to said clerk shall be reproduced and printed as part of the record herein.

Dated: October 22, 1945.

M. WEBER

Attorney for Appellant

Frank M. Weber

Received a copy of the above this 23 day of October, 1945.

J. B. CHUBBUCK

Attorney for Appellees Eva

M. Wells, et al.

[Endorsed]: Filed October 23, 1945. Paul P. O'Brien, Clerk.